

Birmingham City Council

Planning Committee

03 October 2024

I submit for your consideration the attached reports for the **South** team.

| <u>Recommendation</u> | <u>Report No.</u> | <u>Application No / Location / Proposal</u> |
|---|-------------------|---|
| Approve – Subject to Section 106 Legal Agreement | 6 | 2023/05174/PA Newman House 29 Harrisons Road Edgbaston Birmingham B15 3QR Full planning application for demolition of onsite buildings and the redevelopment of existing building comprising chaplaincy and linked student accommodation use (Class F.1) at 29 Harrisons Road for development of 32No. dwellings (Class C3) and associated car, cycle, motorcycle parking, access, hard and soft landscaping and sustainable urban drainage systems (Amended plans and Description) |
| No Prior Approval Required | 7 | 2024/03273/PA Opposite Village Hall Weoley Hill Selly Oak Birmingham B29 4AR Application for a prior notification for the installation of a 20m high telecommunications mast with associated 6no. antennas, 1no. dish, 3no. equipment cabinets, 1no. meter cabinet and ancillary development works |
| Approve – Conditions | 8 | 2024/04553/PA 321 Worlds End Lane Quinton Birmingham B32 2SA Erection of single storey forward extension, first floor rear extension including Juliette balcony, installation of a rear dormer window including second floor side rooflight, partial rendering of property and replacement of rooflight with a new sky light on existing single storey rear extension |

| | | | |
|-----------------|------------|---------------------|---------------|
| Committee Date: | 03/10/2024 | Application Number: | 2023/05174/PA |
| Accepted: | 31/07/2023 | Application Type: | Full Planning |
| Target Date: | 30/12/2024 | | |
| Ward: | Edgbaston | | |

Newman House, 29 Harrisons Road, Edgbaston, Birmingham, B15 3QR

Full planning application for demolition of onsite buildings and the redevelopment of existing building comprising chaplaincy and linked student accommodation use (Class F.1) at 29 Harrisons Road for development of 32No. dwellings (Class C3) and associated car, cycle, motorcycle parking, access, hard and soft landscaping and sustainable urban drainage systems (Amended plans and Description)

Applicant: Calthorpe Estates
C/o Agent
Agent: CBRE
55 Temple Row, Birmingham, B2 5LS

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. **Proposal:**

- 1.1 Planning permission is sought for the demolition of existing on-site buildings and the redevelopment of existing building comprising chaplaincy and linked student accommodation use (Class F.1) at 29 Harrisons Road for development of 32No. dwellings (Class C3) and associated parking, access, landscaping and drainage.



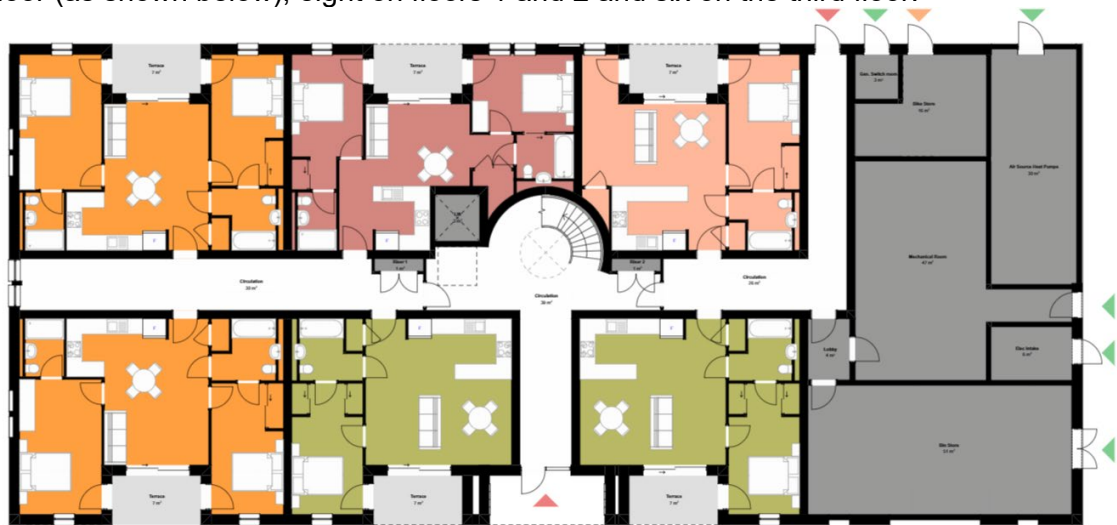
- 1.2 The proposed development would see four, 4-bedroom townhouses (13%) being provided to the front of the site and twenty-eight apartments being provided in a four-storey block to the rear, on the existing building's footprint. The apartments would comprise five, 1-bedroom 2person apartments (15%), six, 2-bedroom 3person apartments (19%) and seventeen, 2-bedroom 4person apartments (53%). This would provide an overall split of units as follows: 15% 1-bedroom; 72% 2-bedroom and 13% 4-bedroom.
- 1.3 The proposed town houses would be developed in two pairs with a different design for each pair, to match the mix of house styles along Harrisons Road. Plots 1 and 2 would comprise the following:
- Ground floor – 35sq.m living/dining/kitchen area, utility room, downstairs cloakroom and hall.
 - First floor - 2 bedrooms (15sq.m and 10sq.m respectively), family bathroom and a study (4sq.m).
 - Second floor located within the roof space with dormer windows – 2 bedrooms with ensembles (14sq.m and 12sq.m respectively).
- Whilst plots 3 and 4 would comprise:
- Ground floor - 35sq.m living/dining/kitchen area, utility room, downstairs cloakroom and hall.
 - First floor - 2 bedrooms (15sq.m and 12sq.m respectively), family bathroom and a study (4sq.m).
 - Second floor located within the roof space with rooflights – 2 bedrooms with ensembles (16/17sq.m and 15sq.m respectively).



CGI Image of proposed town houses fronting Harrisons Road.

- 1.4. Plots 1 and 2 would have a gross internal floor area (GIA) of 136.5sq.m and plots 3 and 4 would have a GIA of 139.1sq.m. The bedrooms would range from 11.8sq.m to 16.8sq.m. The dwellings and bedrooms would meet the National Space Standards.
- 1.5. The dwellings would each have a private garden to the rear that would have an area of approximately 56sq.m for plot one, approximately 65sq.m for plot two, approximately 65sq.m for plot three and approximately 52sq.m for plot four. Access is also available for these residents to the shared amenity space to the rear of the apartment block proposed.

- 1.6. The apartment block would be four storeys in height with the fourth storey set back from the building edge. It would contain twenty-eight apartments – six on the ground floor (as shown below), eight on floors 1 and 2 and six on the third floor.



Proposed ground floor of the apartment block.



Proposed first and second floor of the apartment block.

- 1.7. The apartments would range in size from 53.5sq.m to 54.1sq.m for the 1-bedroom units and 60.4sq.m to 74.4sq.m for the 2-bedroom units. The bedrooms would range in size from 11.5sq.m to 17sq.m. The bedrooms would meet the National Space Standards.



Proposed third floor of the apartment block.

- 1.8. Each of the apartments would have a private terrace or balcony on the ground, first and second floors that would be 7sq.m. The apartments on the third floor would be set back from the building edge providing a private terrace space which would range from 14sq.m to 21sq.m. The two corner apartments on the front of the apartment building that would face the rear of the proposed townhouses, and the rear of the adjacent dwellings would not have access to a terrace area to prevent overlooking. The apartment block would have a green roof.
- 1.9. Shared outdoor amenity space would be provided for the apartments comprising 1,585sq.m of green space.
- 1.10. In total the site would be split as follows 766sq.m of building footprint (15%), permeable car parking/hardstanding areas 1,063sq.m (21%), green space 2,980sq.m (58%) and other areas e.g. footpaths 372sq.m (7%).



CGI Image of proposed front elevation of apartment building



CGI Image of proposed rear elevation of apartment building

- 1.11. The development would use the existing vehicular access points off Harrison's Road. Twenty-five car parking spaces would be provided for the apartments and eight for the townhouses (2 per dwelling). One electric vehicle charging point would be provided per townhouse and all the apartment spaces would be provided with charging points. Two motorcycle parking spaces are proposed. A bike store would be provided within the apartment block and would have thirty secure and covered cycle spaces.
- 1.12. The development would provide 9.4% affordable housing, comprising three discount market or First homes apartments of 1x 1 bedroom and 2x 2 bedroom at 30% discount.
- 1.13. Twenty-one trees would be removed including 1 Laburnum, 1 Lombardy Poplar, 2 Sycamore, 5 Cherry Laurel, 2 Silver Birch, 4 Yew, 1 Turkey Oak, 2 Garden Pear, 1 English Oak, 1 Ash and 1 Atlas Cedar. These equate to the loss of 0 Category A trees, 3 Category B, 15 Category C and 3 Category U.
- 1.14. The application was submitted prior to the mandatory BNG requirement.
- 1.15. The proposal has been amended during the application consideration. This has included reducing the number of units proposed from 34 to 32, reduction in parking levels proposed in order to retain more trees and soft landscaping on site and the third floor apartments have been re-orientated so that the primary living spaces of the units on each side of the apartment building now face the rear garden rather than the rear gardens of 21, 23 and 37 Harrisons Road. Additionally, private roof terrace access for the corner apartments that run the depth of the building, would be limited to the rear only (adjacent to the living/kitchen/dining room area).
- 1.16. The application is supported by a Design and Access Statement and Addendum; Financial Viability Assessment and Addendum; Transport Statement, Sustainable Drainage Report; Ecological Appraisal and Addendums; Statement of Community Involvement; Arboricultural Impact Assessment; Landscape Statement; Phase 1 Contaminated Land Assessment; Sustainable Construction Statement; Energy and Sustainability Statement; Planning Statement and External Lighting Report.
- 1.17. Site area: 0.52Ha. Density: 61 dwellings per hectare.
- 1.18. [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. 29 Harrison's Road was built in 1956 comprising a chapel, offices and linked student accommodation for students and staff associated with the University of Birmingham. The ground floor comprises a community hall, worship space and other associated offices and facilities with the two upper floors comprising student accommodation including bedrooms, kitchens, bathrooms and associated living space for up to eleven students. The facilities no longer meet the operational requirements of the Chaplaincy and have sought consent from Calthorpe Estates to exit their lease agreement early.
- 2.2. The site was vacated in Summer 2023 having previously been used by The University of Birmingham Catholic Chaplaincy to provide an environment for prayer, meditation, relaxation and worship. The site also provided student accommodation for eleven students. The Chaplaincy has been based on the site since 1964 on a 99-year lease which was due to expire on 5 December 2062.
- 2.3. The current site sees 878sq.m covered by building (circa 17% of the total site area), 3,197sq.m by green space/soft landscaping (circa 62% of the total site area) and 1,106sq.m by car parking and other hard landscaping (circa 21% of the total site area).

- 2.4. The site is flat with a gradual incline from south to north. There is a raised mound each side of the access into the site along the boundary with Harrison's Road. The mound contains the root area of three mature birch trees. The site and its boundaries comprise a substantial number of mature trees.
- 2.5. The site is located two miles to the south-west of Birmingham City Centre and approximately 650m to the southeast of Harborne District centre which includes doctors' surgeries, schools and a variety of shops and other services. It comprises a rectangular three storey building. It is set within an overall site area of 0.52ha with a paved car park to the front and a grassed lawn area to the rear. The site is bound by well-established trees and hedges to all four boundaries.
- 2.6. The site is bounded by existing residential properties to the west, Blue Coat School and its associated fields to the north, existing residential properties to the east and Harrison's Road to the south.
- 2.7. [Site Location Map](#)
3. **Planning History:**
 - 3.1. 13 February 1966. 22908001. Planning permission granted for the erection of a University RC Chaplaincy.
 - 3.2. 29 August 1963. 22908000. Planning permission granted for a RC University Chaplaincy.
4. **Consultation Responses:**
 - 4.1. Regulatory Services – No objection subject to safeguarding conditions relating to contaminated land, demolition method statement, construction method statement, glazing noise insulation and electric vehicle charging.
 - 4.2. LLFA – No objection subject to sustainable drainage conditions.
 - 4.3. Transportation – No objection. Amended plans show that 2 no. dwellings have been removed from the scheme. The remaining dwellings retain 2 no. parking spaces each although access to the parking has changed. Plot one's parking is now accessed from the rear of the 'no parking zone.' I am a little disappointed to see that the parking provision has been reduced by three spaces for the twenty-eight apartments. I understand that the reason behind this is down to the trees. The proposed access to the development remains unchanged on the amended plan. The drive to the new 'plot one' would be accommodated from the existing second access point. As previously stated, works to the public highway will be undertaken by a S278 agreement. It will be decided at that point if the access to the car park will require a bell mouth or a heavy-duty footway crossing.
 - 4.4. Affordable Housing Team – No objection. The preference would be for on-site affordable housing as there is a very limited amount of affordable housing that is predicted to be delivered within Edgbaston as referenced in the city-wide pipeline in stark contrast to the relatively high level of applicants on the Housing register. In accordance with the housing register the highest need for the ward is 1-bedroom properties (37%) which reflects the low level of 1-bed homes within the existing stock based on the Census 2021 data. The next highest need is 2-bedroom properties (31%) followed by 3-bedroom properties (21%) and 4+ bedroom properties (9%).

The preference for the city would be for an increased amount of affordable family sized homes however the proposed offer of 1- and 2-bedroom properties would be in line with the need of the ward of Edgbaston and as such would be acceptable for this development. The average sold house price in Edgbaston is £418,459 according to Zoopla, which is notably higher than the average house price in Birmingham which is £233,000. This highlights the need for affordable home ownership options for Edgbaston.

- 4.5. West Midlands Police – No objection subject to safeguarding conditions relating to CCTV, access-controlled door entry system and lighting.
- 4.6. West Midlands Fire Service – The proposed development will be required to meet Building Regulations.
- 4.7. Employment Access Team – No objection and no employment related conditions are required.
- 4.8. Leisure Services – No response received.
- 4.9. Severn Trent Water – No objection subject to a foul water drainage condition.
- 4.10. Education (Early Years and Childcare) – No objection. I have reviewed the current childcare sufficiency for the specific ward the site is located (Edgbaston). In summary there are no childcare issues with this proposal based on the following:
 - There is an over-supply of 2,630 PTE (Part Time Equivalent) childcare places for the 0- to 4-year-old age group for the Edgbaston Ward.Based on the current childcare sufficiency places available local childcare providers have the capacity to absorb any increased demand from the proposed development.

5. **Third Party Responses:**

- 5.1. 51 Residents, Ward Councillors, MP and Resident Associations notified. Site and press notice posted. 57 letters of objection from residents (many of which are not near the site), Preet Gill MP, Councillor Deidre Alden and Councillor Matt Bennett received alongside 5 letters of support on the original submission.
- 5.2. The five letters of support are based on the following:
 - This new proposal will positively benefit the street and local community by providing a range of modern, energy efficient dwellings that complement the existing range of different houses.
 - The houses proposed to front Harrisons Road will be of particular benefit in terms of Secure by Design principles by providing much needed overlooking to the street/public realm.
 - The development will echo the type of urban form that exists further down Harrisons Road where there are 3/4 storey apartments at Crofters Court that sit behind the existing houses and rear parking and gives the area a suburban yet modern city environment that responds to the national need for more housing.
 - The proposed apartments look modern and stylish, but I would like the planning officer to insist that any gas pipes that are required and fitted to the exterior elevation of both the apartments and the houses are carefully positioned or covered as this can often look ugly on contemporary developments.
- 5.3. The letters of objection are based on the following grounds:
 - Insufficient parking would be provided. The development should have garaging.

- Increase in traffic and its impact on the local highway network.
- Noise and disturbance.
- Impact on property values.
- Too dense a scheme with too many units proposed.
- Proposed apartment building is too tall/scale of development.
- Impact on privacy and overlooking.
- Against building student accommodation.
- Local facilities such as schools, doctors and dentists have no capacity.
- Loss of a significant green area.
- Design of the proposed development.
- Loss of light.
- Impact on existing trees and tree losses.
- Impact on drainage and surface water run-off.
- Site is in the Conservation Area and the proposed development would not therefore be suitable.

5.4. Preet Gill MP - Multiple residents have contacted me with concerns about the proposed development of Newman House.

First, the plans indicate that this is a large-scale build, with the capacity to house up to 142 new residents. There are currently only around a dozen dwellings on Harrisons Road. Such a high-density development will not only alter the character of the area but also put considerable pressure on parking and congestion. Residents tell me that already parking is scarce and congestion problematic, especially with the road's proximity to the University of Birmingham and Q.E. Hospital. They are rightly worried that while the planning application allows for some more parking spaces, this is insufficient to meet the predicted rise in demand.

Residents are also worried about losing valuable green space to this development. The plans suggest that two heritage trees are due to be cut down, namely the oak in front of the chaplaincy and the atlas cedar at the back. There are concerns, too, about the loss of a hedge along the side of No. 23. A resident has also informed me that, in the new plans, developers would remove what was a green buffer and build a property directly adjacent to their home. This, they worry, would significantly alter the character of their property.

While I acknowledge the urgent need for housebuilding, I share residents' concerns that these new properties will not be affordable. Similar flats in Edgbaston are available for rent for around £2,000pcm and the townhouses planned have an estimated conservative market value of £500,000.

5.5. Councillor Matt Bennett and Councillor Deidre Alden –

a) Loss of privacy - residents are concerned that the combination of the increased height compared to the current building, the presence of balconies on the apartments and the loss of trees which function as a barrier will result in a significant loss of privacy for neighbouring properties

b) Intensity of the development - I am supportive of the intention to create more family homes and welcome that aspect of the development. I believe that a greater number of such properties and fewer apartments would be more in keeping with the character and housing needs of the area, as well as being more sustainable in terms of the impact on the environment, local services and utilities.

c) Traffic and parking - there are plans for forty-one parking spaces but are likely to be significantly more cars owned by residents. This will have an impact on local parking. There is currently a residents parking scheme but not much spare capacity on the road for more cars and most of the surrounding roads have parking restrictions of one kind or another. The projected impact on traffic also seems optimistic and it is worth noting that there are regular problems with traffic in this area relating to a nearby school.

d) Environmental Impact - I am concerned about the loss of trees which form part of this proposal.

Finally, although this proposal does not specify the nature of the ownership structure of these properties (which, as I understand it has yet to be determined), I would like it noted that I am concerned about the increasing tendency for new "build to rent" apartment buildings. Such developments limit the opportunity for first time-buyers to get onto the property ladder and, in this case, would be out of keeping with the character and housing needs of the area. I would be very concerned if the apartment building at this development ended up being a rental only development.

- 5.6. Calthorpe Residents Society - We find that we cannot support the proposal in its current form and would suggest changes should be made to the size of the apartment building, the proximity of new installations close to existing households and that greater clarity is required regarding the plans for existing trees and the provisions for increased parking and local traffic. Our concerns are as follows:

1. Deleterious effect on the local environment because of the loss of local trees and the increase in local traffic that will occur because of the development. Trees are a vital part of this area because of their effects on the environment and appearance of this unique part of the city. The loss of trees, many of which are in excellent condition, which is outlined in the proposal particularly on the right-hand side of the proposed apartment block appears excessive. Loss of these trees will not only affect the environment it will also cause a loss to a natural break that would have been present between existing properties and the new development. There is already very heavy traffic in the area that is close to the University, the main site for the largest hospital in the city as well as several schools and a shopping centre. The infrastructure will struggle to contain more traffic and there will, of course, be adverse effects on noise and air pollution.

2. Adverse effects on the character of the local neighbourhood. The development is too dense in nature with too many dwellings on such a small site. In addition, adding a further storey to the height of the currently existing building will be out of place in the immediate neighbourhood that is made up of small to medium single occupancy dwellings.

3. Adverse effects on the privacy of existing householders. Two aspects affect this. Firstly, the plan to install a new private road just metres away from an existing house (23, Harrisons Road). This road with no planned softening by use of soft planting or trees will impact on that property by way of general traffic, noise and the placement of the planned bin store and general utility area for the apartment block directly opposite the existing home. Secondly, the new apartment block will with its current orientation and design overlook existing properties and gardens which will clearly affect the privacy of said households.

4. We would respectfully suggest that the plan be reviewed regarding

- a. Reducing the height of the apartment block.
- b. Reviewing the orientation of the block.
- c. Reducing the overall density of building on site.
- d. Lessening the reduction in removal of existing healthy trees and preserving as much as possible of the existing natural habitat.
- e. Reviewing the arrangement of the new access road which lies in close proximity to 23 Harrisons Road
- f. Reviewing the arrangements for car parking.

- 5.7. A further 12 letters of objection were received in relation to the amended plan consultation. The comments received welcome housing development on the site and acknowledge that the amended plans have addressed several of the issues raised. However, they remain in objection for many of the reasons outlined above. Further responses were also received from Councillor Deidre Alden and Preet Gill MP that reiterated the concerns outlined above.

6. **Relevant National & Local Policy Context:**

6.1. a. National Planning Policy Framework:

Chapter 2: Achieving Sustainable Development – paras. 7, 8, 10, 11
Chapter 4: Decision-making – paras. 38, 47, 55, 56, 57
Chapter 5: Delivering a sufficient supply of homes – paras. 60-81
Chapter 8: Promoting healthy and safe communities – paras. 96, 99
Chapter 9: Promoting sustainable transport – para. 114-117
Chapter 11: Making effective use of land – paras. 123-130
Chapter 12: Achieving well-designed places – paras. 135, 136, 139
Chapter 14: Meeting the challenge of climate change, flooding and coastal change – paras. 162, 173 and 175.
Chapter 15: Conserving and enhancing the natural environment – paras. 180, 186, 189-194

b. Ministerial Statement 30 July 2024: Building Homes

c. Birmingham Development Plan 2017:

PG1 – Overall Levels of Growth
PG3 – Place Making
TP1 - Reducing the City's carbon footprint.
TP2 – Adapting to Climate Change
TP3 – Sustainable Construction
TP4 – Low and Zero Carbon Energy Generation
TP6 – Management of Flood Risk and Water Resources
TP7 – Green Infrastructure Network
TP8 – Biodiversity and Geodiversity
TP27 - Sustainable neighbourhoods
TP28 - The location of new housing
TP37 - Health
TP38 – A Sustainable Transport Network
TP39 – Walking
TP40 – Cycling
TP44 - Traffic and congestion management
TP45 - Accessibility standards for new development

d. Development Management DPD:

Policy DM1 – Air Quality
Policy DM2 – Amenity
Policy DM3 - Land affected by contamination, instability and hazardous substances.
Policy DM4 – Landscaping and Trees
Policy DM5 – Light Pollution
Policy DM6 – Noise and Vibration
Policy DM14 – Transport Access and Safety
Policy DM15 – Parking and Servicing

e. Supplementary Planning Documents & Guidance:

Birmingham Design Guide
Birmingham Parking SPD
Nature Conservation Strategy for Birmingham SPG
Sustainable Management of Urban Rivers and Floodplains SPD
Birmingham Housing and Economic Needs Assessment (April 2022)
Site Layout planning for daylight and sunlight – a guide to good practice.

7. **Planning Considerations:**

- 7.1. The key issues for determination are the principle of development, housing land supply, quantum of development and illustrative scheme, access/parking/highway safety and issues relating to drainage, contaminated land, noise and amenity, air quality, ecology/landscape and sustainability.

Five Year Housing Land Supply

- 7.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that *'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise'*.
- 7.3. Paragraph 11d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.4. The Birmingham Development Plan became 5 years old on 10th January 2022. When the application was submitted on 15 December 2022, the Council could not demonstrate a five-year supply of deliverable housing sites. Consequently, at that point, Paragraph 11d) of the NPPF was engaged and the tilted balance applied for decision taking. This meant that planning permission should be granted, unless adverse impacts of doing so, would significantly and demonstrably outweigh the benefits.
- 7.5. However, following the revised NPPF at the end of 2023, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 4 years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than 5 years old, instead of a minimum of 5 years as set out in paragraph 77 of the Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need.
- 7.6. On the 8 July 2024, the LPA published a revised housing land position statement that demonstrates that the city has 4.38 years of deliverable housing land supply. Accordingly, as of the 8 July 2024, the 'tilted balance' under paragraph 11(d) of the NPPF no longer applies to decisions on planning applications relating to new housing development in the city.

Principle of Development

- 7.7. The application site sits within the established residential suburb of Edgbaston. However, it is not within the Edgbaston Conservation Area which sits some 100m to the east of the site. The site was last used by the University of Birmingham Catholic Chaplaincy with some accommodation for students. The independent Blue Coat School sits to the rear of the site.
- 7.8. Planning permission is sought for the demolition of the existing on-site buildings and its redevelopment for thirty-two dwellings comprising four, 4-bedroom townhouses and

twenty-eight apartments (five 1-bedroom and twenty three 2-bedroom). As the development proposed would replace a University of Birmingham student use (within walking distance of the campus but off-campus) with new residential development, I consider the principle of the development to be acceptable and in accordance with Policy.

Quantum and layout of development

- 7.9. Thirty-two residential units are proposed, four new 4-bedroom townhouses to the front of the site and twenty-eight apartments in a four-storey building to the middle of the site, located in the same position as the existing building. The density proposed would sit at 61 dwellings per hectare which would be above the immediate neighbouring density but not the wider area given the provision of flats to the north of the site. Given the location of the site, within walking distance of Harborne District Centre and a number of state and independent schools alongside provision of public transport locally alongside that the site is not located within Edgbaston Conservation Area, I consider the number of dwellings and subsequent density proposed to be acceptable.
- 7.10. The mix of apartment size proposed is welcomed, as they would be complementary to the wider Harborne/Edgbaston area which includes a wide mix of apartments and houses alongside employment and retail uses helping to meet everyday community needs, creating a more sustainable place. With regards to policy TP30 (The type, size and density of new housing) the submission proposes thirty-two dwellings with a higher proportion of 2-bedroom apartments (72%) compared to 1-bedroom (15%) and 4-bedroom (13%).
- 7.11. The Council's published Housing and Economic Development Needs Assessment (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city. This identifies that there is a greater need for two (35%) and three bedroomed properties and only a 5% requirement for one-bedroom properties but this mix changes for affordable rented housing being 20% for one-bedroom units and 35% for two-bedroom units. Whilst it is not expected that every proposal would provide the exact mix suggested above, the current proposal represents an over-provision of both one and two-bedroom units if they are open market housing, and it would be preferable to see 3-bedroom units. This would contribute to the aim of creating a more varied supply of homes in the area. The thirty-two dwellings would contribute to the identified need for the Edgbaston Constituency and would also contribute to the wider 51,000 additional homes that are required to be built in Birmingham by the end of the plan period.
- 7.12. Whilst this proposal would see a higher percentage of one and two-bedroom apartments, the wider area has a much greater mix of residential units which are primarily family housing with flats mixed within. The immediate housing is large scale family housing with flats located adjacent to the site to the rear. As such, I consider the mix and proportion of one bedroom and 2-bedroom units, alongside the four, four-bedroom townhouses to be acceptable.
- 7.13. In layout terms, the four-bedroom townhouses would be located across three storeys and would have an area of either 136.5sq.m or 139.1sq.m and bedrooms ranging from 11.8sq.m to 16.8sq.m. These units would meet the National Space Standards. Rear private amenity space would be provided which would fall below the Design Guide SPD guideline of 70sq.m at between 52 and 65sq.m. Whilst this would be on the small side for a 4-bedroom house, the space would be sufficient for the requirements of private and secure outside play space, seating area and washing line. Residents would also have access to the shared amenity space to the rear of the proposed apartment block.

- 7.14. The proposed two-bedroom flats would have an area ranging between 60.4sq.m and 74.4sq.m whilst the one bedroom units would have an area ranging between 53.5sqm and 54.1sq.m. The bedrooms would range in size from 11.5sq.m to 17sq.m. These units would meet the National Space Standards except two, two-bedroom units at 60.4 and 60.6sq.m that just fall short of the 61sq.m requirement. However, the bedroom sizes comply and when assessing the internal layout, the shortfall of 0.6sq.m and 0.4sq.m respectively would not prejudice the living conditions of future occupiers.
- 7.15. Shared outdoor amenity space would be provided for the apartments (and available for use by the townhouses) comprising 1,585sq.m of green space. This would amount to over 56sq.m per apartment (significantly more than the policy guideline) alongside their own private balcony/terrace space of 7sq.m for the ground, first and second floor apartments and between 14 and 21sq.m for the third-floor apartments (although I note that two apartments on the third floor would not have private terrace access to avoid overlooking of adjacent properties). I consider that the amenity space provided on site for the apartments to be acceptable.
- 7.16. In site layout terms, the proposed apartment block would be constructed in the same location as the existing three storey building on a slightly larger footprint than the existing. The townhouses would be a new addition in terms of buildings on site and would be located to the front of the site, in line with the existing and established building line. Originally six townhouses were proposed however this was reduced to four to move the development away from the adjacent neighbour and to keep the existing trees.
- 7.17. The road access using the existing road network is appropriate and pedestrian and cycle access is readily available due to the site connection to the district centre.
- 7.18. Based on the above, I consider the proposed scheme to be acceptable and in accordance with policy from a quantum and layout of development perspective.

Design and Appearance

- 7.19. The loss of the existing building is regrettable. The existing chaplaincy building is a bold design and of a quality finish typical of its time and is not an unsightly or obtrusive structure in its architecture or positioning. Secondly, the open treed landscaping contributes significantly towards the spacious green credentials of Edgbaston and its loss is regrettable. That said, the more efficient use of land, particularly in meeting Birmingham's challenging housing targets weighs heavily in the planning balance and the opportunity to deliver housing on this site must be seriously considered. The density and mix of housing are ambitious and despite the needs to ensure land is used efficiently, the City Council must be satisfied that this is not at the cost of amenity, biodiversity or character.
- 7.20. The layout proposed has been amended during the application process, moving the access from the southern (left-hand) side to the northern (right-hand) side. The townhouses proposed towards the street would re-enforce the established building line along the western side of Harrisons Road and this is supported. The proposed pairs of townhouses would also reflect the grain of the street as it continues to the north. The apartment block to the rear would sit slightly further back than the existing chaplaincy building and in line with a zone of rear-set post war housing to the rear of Harrisons Road (to the north) called Crofters Court. This arrangement of two zones of development relating to the wider existing town planning of the area helps to justify the approach despite it being back-land development, with fronts facing rears, which is generally resisted.
- 7.21. The more challenging aspect of the proposal is scale and height. Starting with the housing proposed along Harrisons Road, the currently housing in the area is all two-

storey in height and the application seeks to introduce 2.5 and 3-storey housing along this frontage. That said, since submission, the proposal has been amended to reduce the townhouses from six to four. As a result, the street frontage would be less cramped and the difference in height would have less impact due to the separation.

- 7.22. Further north along Harrisons Road, the post war estate sits at four-storeys in height where it appears adjacent to the road and blocks directly behind. That said, Croft Court, the block that sits behind the 19th century housing is mindful of its impact and is reduced in scale to preserve amenity, building hierarchy and established townscape character. The existing chaplaincy followed these principles at three-storeys despite not sitting behind a front (street facing) range of buildings, because of its rear-set location. The proposed apartment block would sit at four storeys behind the proposed street frontage townhouse development with the top floor of the apartments set back to reduce any impacts in terms of scale, massing and overlooking. The separation distances are far less generous than at the adjacent Croft Court which not only visually make this building more prominent, but overlooking could also be more problematic, particularly from the third-floor balcony into private gardens in winter.
- 7.23. In terms of design, the scheme has been amended to deliver both the townhouses and apartment as red brick rather than the mix of render and bricks and white bricks originally proposed and this is welcomed. The proposal would see a modern interpretation of historic Edgbaston architecture, and this is also welcomed and supported.
- 7.24. City Design raise no objection to the proposal. Whilst they consider that the apartment block to the rear would be more sympathetic as a three-storey building as opposed to the four proposed, they raise no objection given the site's historical context and estate planning over the centuries. Whilst the scale is larger than that of the adjacent development, I consider that the scale, massing and design of the proposal is acceptable within its context and as such, would be in accordance with Policy and I am satisfied that the final design would add an improved feature to the street-scene.

Residential Amenity

- 7.25. City Design, whilst not objecting to the scheme, have raised concerns regarding the impact of the proposed development on the adjacent neighbours by reason of its inadequate separation distances to existing dwellings.



Site as existing – overlooking of adjacent properties.

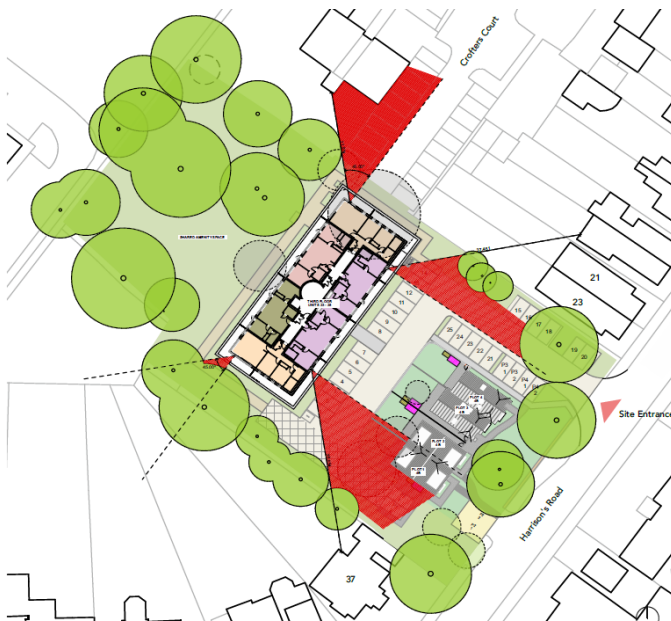
- 7.26. The proposed apartment block would have approximate minimum separation distances of 24m to the corner of the property at 23 Harrisons Road, 20m to existing flats in Crofters Court and 28m to the corner of 37 Harrisons Road. These separation

distances would fall short/just meet the 27.5m guideline in the Design Guide SPD.



Proposed site plan – overlooking of adjacent properties from first and second floors.

- 7.27. To address the potential overlooking concerns that were raised by adjacent residents, the amended plans have moved the originally proposed corner balconies away from the boundaries and they are now proposed towards the middle of the building and are enclosed on both sides. The amended scheme has also removed habitable room windows on both gable ends of the building although the windows to the corridors have been retained as they are used for smoke extraction in the event of a fire. The internal layout on the ground, first and second floors has also been changed to reduce the impact of overlooking. The proposed apartment building would be a narrower width than the current existing building allowing the distance between the proposed habitable room window on the ground, first and second floors closest to 37 Harrison's Road to increase by a further 8m than that existing.



Proposed site plan – overlooking of adjacent properties from third floor.

- 7.28. Regarding the top third floor apartments, the amended scheme has reduced the extent of the external terrace proposed; sliding doors have been replaced with windows removing access from the bedroom onto the terrace; the large expanse of glazing on the south-eastern façade has been removed as the internal layout has changed. The open plan kitchen/living/dining room, which previously faced southeast, has been moved so that it faces the rear of the site to significantly reduce the possibility of

overlooking into the neighbouring properties immediately adjacent to the site. Previously the terrace to units 25 & 28 wrapped around the three sides of each of the units with the occupants having access onto the terrace from all rooms. This has now been restricted so that only the terrace to the western elevation/ rear of the site is accessible and the extent of the proposed external terrace to units 26 & 27 has been reduced to maintain a distance from the boundaries.

- 7.29. Habitable room windows on the ground, first and second floors, on the north elevation look over the rear garden and would not affect residential amenity to Crofters Court as only oblique views from the windows or balconies would be possible. The third floor on the north elevation would have a terrace that at approximately 20m would fall below the 27.5m guideline. However, this view would not be a direct window to window view, even from the terrace, given the siting of the nearest building in Crofters Court. Given the significant tree cover along this boundary during the summer months and the oblique views from habitable windows and the top terrace to windows and the shared amenity space that would be possible, I do not consider that the possible overlooking that could occur from the development because of not meeting the separation distance guideline would be sufficient to warrant a refusal of planning permission.
- 7.30. Approximately 24m separation would exist between the new apartment block and the rear windows of 23 Harrisons Road. This part of the eastern boundary also has significant tree cover during the summer months. Once again, this view would be at an oblique angle from the habitable bedroom windows at first and second floor and the parapet wall to the terrace on the third floor would almost completely prevent a view from the windows to the habitable rooms on that level. No access is available from the terrace on the front side of the apartment block and as such, no overlooking would occur from residents using the terrace on the third-floor level on this side of the building. On this basis, whilst the separation distance would not meet the 27.5m guideline, I consider that the building has been designed to alleviate the possibility of overlooking to number 23, during both the summer and winter months and would not therefore result in a significant harm to privacy or overlooking sufficient to warrant a refusal.
- 7.31. The adjacent property on the western boundary is 37 Harrisons Road. The proposed scheme would have a separation distance of approximately 28m from the proposed habitable room windows on the first and second floor windows of the apartment block. This distance would be from the windows on the new build to the nearest corner of the building at 37. This distance would increase to windows on the rear elevation of 37. The oblique angle that would provide a view into the garden and/or nearest windows would restrict any significant overlooking to occur and as the distance separation meets the guideline, no loss of privacy would occur. In any event, the western end of the proposed apartment block has the same internal and external layout as the eastern side and as such, the same assessment would apply to overlooking and privacy from all the floors including the terrace area on the third floor. The dwellings to the front have also been reduced in number to enable more trees to be retained on site along the western boundary, which is heavily screened by trees, to ensure that privacy to number 37 is maintained. Based on the above, I consider that the proposed development would not create overlooking or a loss of privacy to the residents in number 37 Harrisons Road.
- 7.32. I note the objections received from neighbours either side of the existing premises (and some further afield) and their concerns regarding overlooking and loss of privacy. The submission of amended plans including the internal revision of the apartment layouts and retention of more trees on site would overcome this issue. No loss of light to neighbouring occupiers would occur because of this proposal.

Impact on the amenity of the proposed flats and houses

- 7.33. The proposed apartment block would be sited approximately 12.8m from the rear boundary of the townhouses and would have an approximate 21.6m separation distance from window to window. The proposed apartment block cannot be sited further back into the site without significant tree loss which would be resisted. As such, the flats would overlook the rear elevation and gardens of the four townhouses proposed. However, as this would not be imposed on existing residents and would be for new occupants to decide upon, I consider that the building relationship between the new build houses and apartments would be acceptable.
- 7.34. The new build townhouses would also have garden areas that would be fall short of the 70sq.m guideline in the Design Guide SPD. I have already noted that the space would be sufficient for the basic needs of an outdoor space and that the residents would also have access to the communal space to the rear of the site. However, to ensure that no further garden area is lost, I consider it necessary to remove permitted development rights for extensions and outbuildings to the four townhouses and the relevant condition is proposed below.

Access and parking

- 7.35. The development would use the existing vehicular access points off Harrison's Road. Twenty-five car parking spaces would be provided for the apartments and eight for the townhouses (2 per dwelling). One electric vehicle charging point would be provided per townhouse and all the apartment spaces would be provided with charging points. Two motorcycle parking spaces are proposed. A bike store would be provided within the apartment block and would have thirty secure and covered cycle spaces. Transportation have raised no objections to the proposed development and whilst they would prefer to see more parking on site, they note that this would be at the expense of trees on site and therefore they consider the scheme acceptable in both parking provision and highway safety/traffic terms.
- 7.36. I note the objections and comments received from residents. As already noted, the proposal would not have any significant effect on the network, including any impact on emergency vehicles, sufficient to refuse planning permission. Parking requirements have been assessed and the twenty-five spaces for the twenty-eight apartments and eight spaces for the four townhouses have been assessed as acceptable and in line with Policy. Safeguarding conditions are recommended below relating to construction management.

Ecology, Landscaping and Trees

- 7.37. The application was submitted prior to the mandatory BNG requirement.
- 7.38. A Preliminary Ecological Appraisal (PEA) has been submitted in support of the planning application. The PEA survey was undertaken by Aspect Ecology on 19th April 2023. A further Technical Note was submitted by Aspect Ecology in August 2024 to address the comments made in response to the submitted PEA, and in particular, the likely presence of roosting bats in buildings and trees; and following further comments, amended plans were submitted to include a green roof on the building.
- 7.39. The site is in southwest Birmingham within a suburban context. The site is bound to the northwest by the Blue Coat School sports centre complex, and by roads and residential dwellings in all other directions. The site itself comprises a building operating as a church and events centre, with hardstanding in the form of a car park and access roads in front. Open space containing amenity grassland and landscape planting is found to the rear, with several mature and semi-mature trees present throughout the site. Scrub and shrub planting runs around the site perimeter.
- 7.40. The PEA states that the site comprises buildings and hardstanding, as well as a

substantial area of amenity grassland and scrub to the north of the site which supports a substantial number of trees. Features of ecological interest include trees, including two veteran trees, a single hedgerow, which are of value at the site to district level.

- 7.41. There are no designated nature conservation sites near the proposed development which are likely to be impacted by the proposals.
- 7.42. The PEA notes that the site offers some opportunities for protected species, however no evidence of any such species was recorded during the survey work. It is likely that bird's nest within tree, scrub, and hedgerow habitat on-site. Scrub and associated vegetation piles offer opportunities for hedgehogs and other small mammals. A single tree with bat roosting potential was identified, and this is to be retained under current proposals. The PEA reports that all buildings on-site provide negligible suitability for roosting bats and no evidence of roosting bats was recorded during the survey work undertaken.
- 7.43. The PEA recorded the following Invasive Non-Native Species (INNS) on site, cotoneaster and rhododendron.
- 7.44. EcoRecord holds records of a variety of protected/notable species within 1km of the site, including common toad, sparrowhawk, swift, greenfinch, black-headed gull, stock dove, house martin, peregrine, kestrel, herring gull, lesser black-backed gull, house sparrow, black redstart, dunnoek, tawny owl, starling, wren, redwing, song thrush, mistle thrush, hedgehog, badger, polecat, Daubenton's bat, noctule, soprano pipistrelle and common pipistrelle.
- 7.45. The proposed development would see a loss of 217sq.m of green open space when compared to the existing site (4%). However, the landscaping scheme and green roof are considered to reduce the impact of this loss and improve the varied habitats on site to the benefit of biodiversity. Neither the City Ecologist nor Landscape Officer raise any objections to the proposed development.
- 7.46. The City Ecologist recommends that safeguarding conditions should be attached to any approval relating to invasive weeds on site, ecological enhancement measures, bird/bat boxes, construction ecological management plan, landscape and ecology management plan, lighting, biodiversity roof and landscaping. These conditions are recommended below. On this basis, I consider that the proposed development accords with policy.
- 7.47. An Arboricultural Impact Assessment (AIA) and Method Statement was submitted in support of the application. The site is not subject to a Tree Preservation Order and the trees are not protected by virtue of a Conservation Area designation. A total of eight groups of trees and fifty-six individual trees were included within the assessment. Two Veteran trees were identified and are afforded greater protection through NPPF policy. The two veteran trees are Category A English Oak and the existing building is currently sat within their root protection areas (RPA's). The proposed building would continue to sit within their RPA's but would not extend any further into it than the existing building.
- 7.48. Twenty-one trees would be removed including 1 Laburnum, 1 Lombardy Poplar, 2 Sycamore, 5 Cherry Laurel, 2 Silver Birch, 4 Yew, 1 Turkey Oak, 2 Garden Pear, 1 English Oak, 1 Ash and 1 Atlas Cedar. These equate to the loss of 0 Category A trees, 3 Category B, 15 Category C and 3 Category U.
- 7.49. The trees located towards the front of the site have high amenity value helped by the deep front garden space and use as car parking amongst landscape. The trees in landscape on the frontage (mature birch, oak) have the most presence for Harrisons Road together with canopy beyond including trees internal to the front garden as well

as trees/hedging on both boundaries. A dense group of trees fills the rear garden area.

- 7.50. The Arboricultural Officer considers that the submitted AIA appropriately considers the proposed layout and foreseeable impacts. Several trees are proposed to be removed. The most substantial of the removals is the sycamore tree T40 between the existing house and the end of the gated private access Crofters Court. Two pear trees and one oak tree (T9, 10 and 11) are removed from a landscape area mid-depth in the front garden to allow reworking of parking space and the position of plots 1 to 4. Various smaller trees are proposed to be removed, mostly at the boundaries to increase parking area.
- 7.51. Towards the side/rear of the site (southwest boundary), two trees (T16 oak and T21 oak) have been identified as mature/veteran and with an A category for retention. The RPAs of these trees (particularly T16) overlap the proposed new apartments although the position of existing foundations suggest that the RPAs could be modified, and impacts controlled.
- 7.52. Overall, the Arboricultural Officer considers that the impact to amenity views would be low as the appearance from the frontage would be maintained albeit reducing the depth of views into the site due to plots 1 to 4. The sycamore T40 is out of context with the existing building and neighbouring garages. The Arboricultural Officer raises no objections to the tree removal, and I concur with their assessment. Safeguarding conditions are recommended below.

Environmental Considerations

- 7.53. The Preliminary Conceptual Site Model submitted identifies potential sources of contamination based on historical land uses and proximate uses. Regulatory Services' assessment of the site is that it is moderate risk regarding potential contamination and that there may be a need for an UXO threat assessment (to do with explosive ordinance during proposed intrusive works). They have advised that the next step is to complete Phase II of the contaminated land process and perform an intrusive ground investigation that can be assessed and recommend or approve remediation. Regulatory Services has no objections to the proposed development subject to conditions relating to land contamination. I concur with their review and the relevant conditions are recommended below.
- 7.54. With regards to noise, a noise assessment was not submitted in support of the application, but Regulatory Services identify that the area is already predominantly residential and the only noise source other than road traffic is the sports ground which would not pose an issue. On this basis, Regulatory Services raise no objection to the proposals subject to safeguarding conditions. contaminated land, demolition method statement, construction method statement, glazing noise insulation and electric vehicle charging.
- 7.55. In relation to noise generated by the development and any impact on adjacent residential properties, whilst I note the concerns raised, the site is in an urban residential area adjacent to a school and within walking distance of the district centre. Construction noise would be a short-term impact and as such, is considered a necessary and acceptable impact. Background noise levels relate to existing road traffic noise, and this would not necessarily be impacted by the proposed development. The impact of ad-hoc noise generators such as car doors slamming and/or people talking are difficult to measure and control. As such, I do not consider noise to be a planning consideration that would lead to a refusal of planning permission in this instance.
- 7.56. The application is accompanied by a sustainable drainage report. The site is in Flood Zone 1. The surface water drainage strategy would see the run-off discharging to an

underground attenuation tank with a flow control chamber to limit peak discharge rates to greenfield runoff rates. The overall discharge rate would be set at 2 ltrs/s. Permeable paving with a porous sub-base is proposed for the hard landscaped areas. A green roof is also proposed. Foul water would be connected to the Severn Trent Water drains. The LLFA and Severn Trent Water have raised no objections to the development proposals as the proposed development would not increase the risk of flooding. Safeguarding conditions are recommended below. I consider the proposals to be in accordance with Policy.

Sustainable Energy and Construction

- 7.57. Policy TP3 requires new developments to be constructed in ways that:
- Maximise energy efficiency and the use of low carbon energy.
 - Conserve water and reduce flood risk.
 - Consider the type and source of the materials used.
 - Minimise waste and maximise recycling during construction and operation.
 - Be flexible and adaptable to future occupier needs.
 - Incorporate measures to enhance biodiversity value.
- 7.58. A Sustainability Construction Statement is submitted in support of the application. This identifies that the site would conform to a site waste management plan which would aim to divert at least 85% of non-hazardous construction waste away from landfill. The development would reduce water usage by using highly efficient products including low flush toilets and non-concussive spray taps with wastewater managed by using permeable paving and water butts for attenuation. To further reduce energy demands, 100% low energy lighting would be incorporated into the design of the scheme.
- 7.59. Policy TP3 also requires new non-residential developments over 1,000 square metres to achieve BREEAM Excellent standard unless it can be demonstrated that this would make the development unviable. It is recognised that the development proposal will not involve any new non-residential buildings and so the requirement for BREEAM Excellent standard cannot be required.
- 7.60. Policy TP4 requires new developments to incorporate the provision of low and zero carbon forms of energy generation or to connect into existing networks where they exist, unless it can be demonstrated that the cost of achieving this would make the development unviable. Combined Heat and Power (CHP) is the preferred system of energy generation for residential developments over two hundred units or non-residential developments over 1,000 square metres.
- 7.61. The submitted Energy and Sustainability Statement outlines that the scheme would maximise energy efficiency by creating a high-performance building envelope and enhanced air tightness to reduce heat loss. Air Sourced Heat Pumps would be incorporated into the design to satisfy policy TP4 of the BDP which would result in a 68.27% reduction in Co2 against Part L of the 2021 building regulation baseline.
- 7.62. Based on the above, I consider that the requirements of TP3 and TP4 have been met.

Other Issues

- 7.63. I note that many letters of comment/objection have been received from residents. Many of the comments have been addressed above concerning car parking, highway safety, noise, loss of light/privacy, scale/density of development, loss of trees/green area and drainage. Comments also related to school place provision and NHS service provision. The proposed development is not of a sufficient scale to seek a separate financial contribution for education provision to that provided for by the City's Community Infrastructure Levy (CIL). Regarding NHS service provision – this is provided through the NHS, and it is not within the Local Planning Authority's remit to provide these

services. Comments were also received that objected to student accommodation on this site – which is not proposed; suitability of the proposal given the site is in the Conservation Area – which it is not and impact on property values which is not a material planning consideration. I also note the comments received from Councillors regarding ‘build to rent’ apartments. The proposal has been developed as an open market housing and apartment scheme. If ‘Build to Rent’ apartments were proposed, the apartments would have a different layout and composition to that proposed. In any event, its proposed tenure would not necessarily form a material planning consideration in this instance.

- 7.64. I note that Regulatory Services has requested a condition relating to the provision of EV charging points. However, their provision is now a requirement under Building Regulations and as such, does not require duplication under planning.

Financial Viability and Section 106 Requirements

- 7.65. A Financial Viability Appraisal (FVA) was submitted in support of the planning application which, has been independently assessed by Lambert Smith Hampton (LSH). The FVA concluded that the proposed scheme could not support any affordable housing or off-site contributions. LSH agreed with the FVA conclusion.
- 7.66. Policy TP31 requires residential developments of fifteen dwellings or more to deliver 35% of the proposed units as affordable housing subject to viability, with a strong presumption in favour of on-site provision.
- 7.67. After significant negotiation, discussion with LSH and taking into consideration the scheme’s viability, the applicant now offers the following in terms of affordable housing on the following either/or basis:
- a) The provision of 9.4% affordable housing, comprising three discount market or First homes apartments of 1x 1 bedroom and 2x 2 bedroom at 30% discount, or
 - b) An off-site financial contribution towards affordable housing of £286,682.
- 7.68. The Affordable Housing team has identified that the preference for the city would be for an increased amount of affordable family sized homes however the proposed offer of 1- and 2-bedroom properties would be in line with the need of the ward of Edgbaston and as such would be acceptable for this development. Based on the City’s requirements in relation to affordable housing and taking into consideration the City’s housing waiting list and the need for affordable accommodation, I consider the offer of 9.4% affordable comprising 3 apartments at 30% Discount to Open Market or First Homes to be the more appropriate offer and as such, this is recommended below.
- 7.69. Policy TP9 of the BDP states that new residential developments will be required to provide new public open space broadly in line with the standard of 2ha per 1,000 population. It goes on to say that, in most circumstances, residential schemes of twenty or more dwellings should provide on-site public open space and/or children’s play provision. No on-site POS is proposed, and no play areas are proposed. However, the individual houses would have their own private open space in the form of rear gardens and the apartments would have a significant area of private open space of 1,585sq.m.
- 7.70. No response has been received from Local Services regarding how much an off-site planning contribution for POS/play would amount to. In any event, as already identified, the scheme cannot financially support this payment.
- 7.71. The proposal is liable for CIL and has been calculated at £106,339.49.

8. Conclusion

8.1. The proposed development of the application site for residential purposes is considered acceptable in principle and would make a meaningful contribution towards the Council's 5YHLS and affordable housing. The proposed development would continue to expand the mix of residential properties within the Edgbaston Ward in accordance with policy requirements. There would be no adverse impact on the amenity of neighbouring occupiers and the proposed development would have a beneficial impact on ecology and landscape locally. The quantum of development proposed can be accommodated on the site. On this basis, I have concluded that the proposal is sustainable development.

8.2. The financial viability of the site is challenging however the proposed development would provide three affordable housing units at 9.4%.

9. **Recommendation:**

9.1. That application 2023/05174/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:

- a) The provision of 9.4% affordable housing, comprising three discount market or First Homes apartments of 1x 1 bedroom and 2x 2 bedroom at 30% discount.
- b) Payment of a monitoring and administration fee associated with the legal agreement of £2,000.

9.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 22 December 2024, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons: -

- In the absence of a legal agreement to secure any on-site affordable dwellings, the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.

9.3. That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.

9.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by 22 December 2024, or such later date as may be authorised by officers under delegated powers, planning permission for application 2023/05174/PA be APPROVED, subject to the conditions listed below: -

-
- | | |
|---|---|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the prior submission of a contamination remediation scheme |
| 3 | Requires the submission of a contaminated land verification report |
| 4 | Requires the prior submission of a surface water drainage scheme |
| 5 | Requires the prior submission of a foul water drainage scheme |
| 6 | Requires the submission of a Sustainable Drainage Operation and Maintenance Plan |
| 7 | Requires the submission and approval of external materials and detailing |
| 8 | Requires the prior submission of a method statement for the removal of invasive weeds |
-

| | |
|----|--|
| 9 | Requires the submission of a scheme for ecological/biodiversity/enhancement measures |
| 10 | Requires the prior submission of details of bird/bat boxes |
| 11 | Requires the prior submission of a demolition ecological management plan |
| 12 | Requires the prior submission of a construction ecological management plan |
| 13 | Requires the submission a Noise Insulation Scheme to establish residential acoustic protection |
| 14 | Requires obscure glazing for windows in the side elevations of the apartment building |
| 15 | Requires the submission of details of a communal satellite dish for the apartment building |
| 16 | Requires the submission of hard and/or soft landscape details |
| 17 | Requires the submission of hard surfacing materials |
| 18 | Requires the submission of boundary treatment details |
| 19 | Requires the submission of a landscape management plan |
| 20 | Requires the submission of a lighting scheme |
| 21 | Requires the submission of details of green/brown roofs |
| 22 | Requires the prior submission of a construction method statement/management plan |
| 23 | Requires the prior submission of a Demolition Management Plan |
| 24 | Requires the submission of a CCTV and access-controlled door entry system scheme |
| 25 | Removes PD Rights for hard surfacing of front garden of plots 1 to 4 |
| 26 | Removes PD rights for extensions on Plots 1, 2, 3 and 4 |
| 27 | Removes PD rights for the erection of garages on plots 1 to 4 |
| 28 | To ensure energy and sustainability measures are delivered in accordance with statement |
| 29 | Prevents occupation until the service road has been constructed |
| 30 | Prevents occupation until the turning and parking area has been constructed |
| 31 | Requires the submission of a residential travel plan |
| 32 | Arboricultural Method Statement - Submission Required |
| 33 | Requires the implementation of tree protection |

34 Implement within 3 years (Full)

Reason for Approval

-
- 1 Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply. In this case that the application for planning permission was made before 12 February 2024.
-

Case Officer: Pam Brennan

Photo(s)



View of Newman House front elevation – looking Northwest



View of existing dwelling opposite site entrance – looking southeast



View of adjacent houses on Harrison's Road – looking northeast



Rear elevation of Newman House – looking southeast



View of neighbouring dwelling taken from Google StreetView (dated May 2022)

Location Plan



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|-----------------|--------------------|---------------------|--------------------|
| Committee Date: | 03/10/2024 | Application Number: | 2024/03273/PA |
| Accepted: | 22/05/2024 | Application Type: | Telecommunications |
| Target Date: | 04/10/2024 | | Determination |
| Ward: | Weoley & Selly Oak | | |

Opposite Village Hall, Weoley Hill, Selly Oak, Birmingham, B29 4AR

Application for a prior notification for the installation of a 20m high telecommunications mast with associated 6no. antennas, 1no. dish, 3no. equipment cabinets, 1no. meter cabinet and ancillary development works

| | |
|------------|---|
| Applicant: | Cornerstone |
| | Hive 2, 1530 Arlington Business Park, Theale, RG7 4SA |
| Agent: | WHP Telecoms Limited |
| | Faraday Street, Risley, Warrington, WA3 6GA |

Recommendation

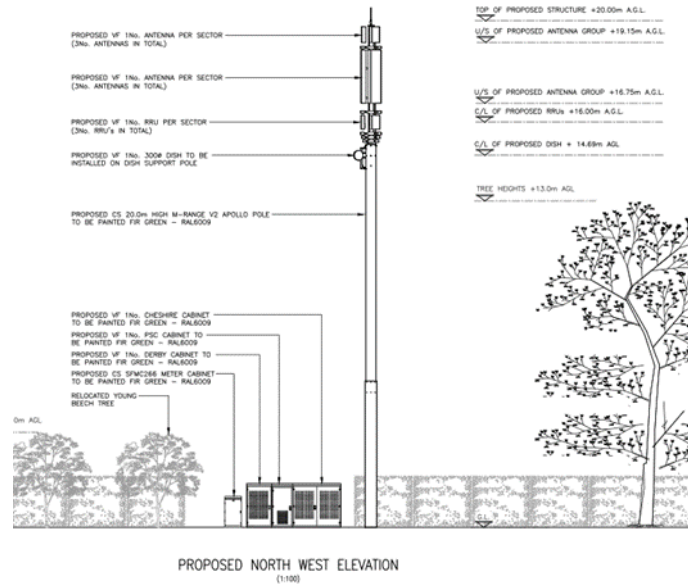
No Prior Approval Required

1. Proposal

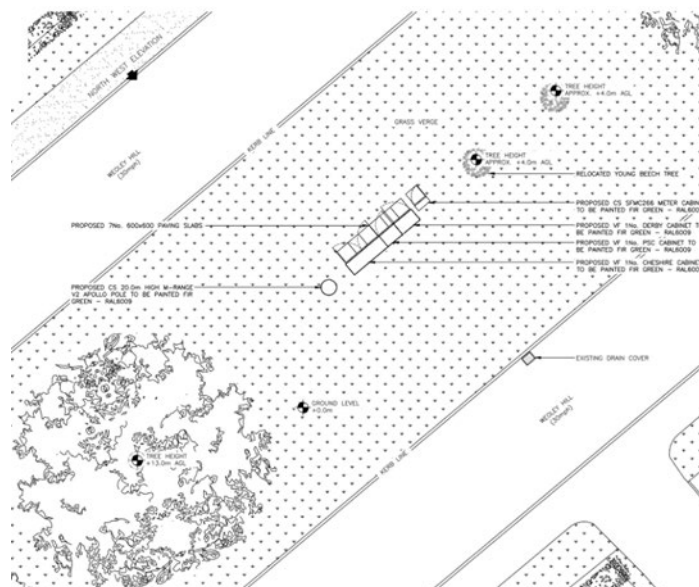
- 1.1. This application seeks to determine whether prior approval is required for the installation of a 20m high telecommunications mast with associated 6 no. antennas, 1 no. dish, 3 no. equipment cabinets, 1 no. meter cabinet and ancillary development works at land opposite Village Hall, Weoley Hill, Birmingham in accordance with the Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 1.2. **When assessing prior approval applications under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 16, Class A (as amended); the only issues that can be considered when assessing the application are the siting and appearance of the proposed telecommunications equipment.**
- 1.3. The proposed equipment would be mounted on a new monopole with an overall height of 20m above ground level. The proposed cabinets include:
 - Meter cabinet – 0.65m in length x 0.57m in width x 1.2m in height
 - PSC cabinet – 0.8m in length x 0.6m in width x 1.7m in height
 - Cheshire cabinet – 1.9m in length x 0.6m in width x 1.7m in height
 - Derby cabinet – 0.8m in length x 0.6m in width x 1.7m in height
- 1.4. The colour of the proposed monopole and associated cabinets would be fir green (RAL6009).
- 1.5. A Certificate confirming that the proposed equipment would comply with the requirements of the radio frequency public exposure guidelines of the International

Commission on Non-Ionizing Radiation Protection (ICNIRP) has been submitted with the application.

- 1.6. The application is being supported by an Arboricultural Impact Assessment/ Arboricultural Method Statement (Arbtech AMS 01, dated 14/8/24.)



(Figure 1: Proposed north-west elevation)



(Figure 2: Proposed site plan)

- 1.7. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises a road island/central reservation situated at Weoley Hill. There are a number of mature trees located at this island which are not TPO protected.

- 2.2. Weoley Hill Cricket Club is located to the north-west of the site on the opposite side of Weoley Hill, with Weoley Hill Village Road and Tennis and Bowls open space located to the east.
- 2.3. Residential properties are located to the north of the site along Witherford Lane and Weoley Hill and to the south along Weoley Hill and Middle Park Road. The nearest residential dwelling at No 85 Weoley Hill is located approximately 40m south of the site. This dwelling overlooks Cricket grounds and does not directly overlook the central reservation island. Other residential dwellings north of the site at No 55, No 56 Weoley Hill, and No 76 to the south are located approximately 88m, 70m and 55m from the site respectively.
- 2.4. The site is not located within a designated conservation area. The nearest conservation area – Bournville Village – is located approximately 1km (0.7mile) from the site.
- 2.5. There are no listed buildings in close proximity to the site. The nearest listed buildings – The Close University of Birmingham (Grade II) and locally listed Archibald House, University of Birmingham – are located approximately 350m from the site. There is no intervisibility between the site and those listed buildings.
- 2.6. There are no schools located in close proximity to the site. The nearest schools – Primary Schools: Our Lady and St Rose of Lima Catholic Primary School – are located approximately 500m from the site.
- 2.7. The street furniture present in the vicinity comprises street lampposts and some telecommunication cabinets on the opposite side of Weoley Hill.
- 2.8. [Site location](#)
3. Planning History
- 3.1. No planning history.
4. Consultation/PP Responses
- 4.1. Transportation Development – No objections.
- 4.2. Trees – No objections and recommended condition that the proposed development shall be undertaken and maintained in accordance with the submitted Arboricultural Method Statement.
- 4.3. Neighbouring residents, local Ward Councillors and MP, and residents associations have been consulted. A site notice has been displayed and a press notice published.
- 4.4. 3 no. letters received from local residents in support of the proposal for the following reasons (in summary):
- Better 5g would be a lifesaver for people working from home
 - Should be installed where it is planned
 - Reception in area is poor
- 4.5. Bournville Village Trust – objecting to the proposal for the following reasons (in summary):
- The site is located within the open visual corridor

- The height would be significantly taller than the trees
 - Central reservation provides view from Weoley Hill United Reform Church, which would be significantly impacted by the proposal
 - Visual impact of the mast would not be minimised
 - Supporting statement does not sufficiently demonstrate a pressing need for further equipment in the area or a lack of coverage
- 4.6. Weoley Hill Village Council – objecting to the proposal for the following reasons (in summary):
- Process followed not robust/insufficient evidence provided, no prior consultation with local residents or community stakeholders such as Bournville Village Trust
 - Insufficient evidence that the existing infrastructure cannot be upgraded
 - Lack of evidence that alternative sites with lower visual impact have been considered
 - Impact on visual amenity
 - Historical significance
 - Close to residential
 - Would harm the special character of the Weoley Hill area which has been recommended for conservation area designation
 - Highly sensitive and historic setting
- 4.7. Pacha house at Friends Institute – objecting to the proposal for the following reasons (in summary):
- Near sensitive residential receptors
 - Near road junction which could be a distraction and obstruction of view for road users
 - Installation could cause damage to existing mature trees on site and EMF frequencies harm trees
 - There are already ample large masts in the surrounding area
 - This part of the road is prone to flooding
 - Impact on visual amenity
 - Should be refused on the grounds that there is not enough evidence of safety to proceed and no Telecoms specific Environmental Impact assessment has been submitted
 - There are legal grounds to refuse it on health grounds and Policy 122 of the NPPF can be used to refuse it on health grounds
 - Adverse health effects on residents
- 4.8. 27 no. letters of objections received from 24 no. local residents raising the following issues (in summary):
- Visual impact
 - Out of character in this locality
 - Impact on tree saplings
 - Impact on Bournville Village conservation area
 - Would dominate skyline
 - Alternative locations should be sought either by Lodge Hill cemetery, near the cricket ground the site with lake
 - The site is part of the BVT traditional area and all the houses and buildings there are regulated on what can be externally done to them
 - Meeting with the council in the village hall would be beneficial
 - The existing cabinets on the opposite site are covered in graffiti
 - ICNIRP certificate is not on public domain
 - There is already an application for the mast on the corner of Lodge Hill Road and Shenley Fields Road
 - Impact on local ecology and birds

- It is not necessary
- Likely to increase fear of harm and anxiety
- Harm, injury and nuisance to local residents
- Public consultation has been inadequate
- Would be visible from nearby properties
- List of consultees is out of date
- In the middle of the fields

5. Policy Context

5.1. National Planning Policy Framework:

- *Chapter 10: Supporting high quality communications*

5.2. Birmingham Development Plan 2017:

- *Policy PG3 (Place Making)*
- *Policy TP7 (Green Infrastructure Network)*
- *Policy TP46 (Digital communication)*

5.3. Development Management in Birmingham DPD:

- *Policy DM2 (Amenity)*
- *Policy DM4 (Landscaping and trees)*
- *Policy DM16 (Telecommunication)*

5.4. Supplementary Planning Documents & Guidance:

- *The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 16, Class A (as amended)*
- *National Planning Policy Guidance*
- *Birmingham Design Guide SPD*

6. Planning Considerations

6.1. Paragraph 122 of the NPPF states that local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.

6.2. When assessing prior approval applications under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 16, Class A (as amended); the only issues that can be considered when assessing the application are the siting and appearance of the proposed telecommunications equipment.

Siting and appearance

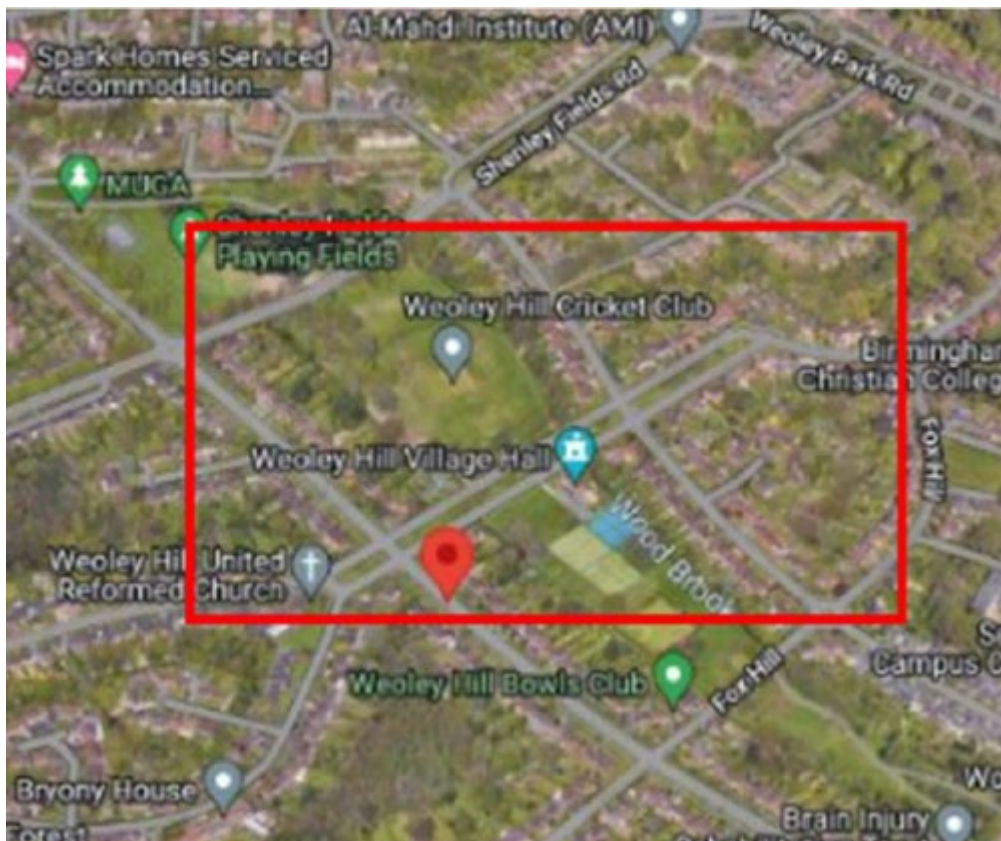
6.3. Development Plan policies are considered insofar as they are material consideration relevant to matters of siting and appearance of the proposed development.

6.4. Policy TP46 of the BDP recognises that technology developments and access to digital services such as the internet are critical to Birmingham's economic, environmental and social development.

- 6.5. The proposal is to install a radio base station, in order to provide the latest upgraded 4G and new 5G technologies as there is a specific requirement for coverage at this location to ensure that the latest high-quality service provision is provided in this area of the Weoley Hill.
- 6.6. Policy DM16 of the Development Management in Birmingham DPD states that new telecommunication development proposals are required to:
- a. *Demonstrate opportunities have been explored for sharing of masts or sites. Such evidence should accompany any application made to the local planning authority.*
 - b. *Demonstrate that there are no suitable alternative sites for telecommunications development available in the locality including the erection of antennae on existing buildings or other suitable structures.*
 - c. *Be sited and designed in order to minimise impact on the visual and residential amenity, character and appearance of the surrounding areas.*
 - d. *If on a building, apparatus and associated structures to be sited and designed in order to minimise impact to the external appearance of the building.*
 - e. *Not have unacceptable harm on areas of ecological interest, areas of landscape importance, or heritage assets and their setting.*
 - f. *Conform to the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines, taking account where appropriate of the cumulative impact of all operators' equipment located on the mast/site.*
- 6.7. In considering whether the site is suitable for telecommunications development; the location advice set out in Birmingham Design Guide SPD is material consideration. Design Principle DP24 of the Birmingham Design Guide SPD states that in the siting and design of telecommunications infrastructure, proposals must undertake a detailed assessment of all sites within the desired location area, ensuring the least sensitive site is selected. If the selected location is a '*most sensitive*' or '*more sensitive*' location (as detailed in City Note LW-55 of the Healthy Living and Working Manual), the assessment must clearly demonstrate and justify why a '*less sensitive*' location cannot be utilised.
- 6.8. As detailed within the Birmingham Design Guide, the '*most sensitive*' locations are:
- *Listed buildings, their curtilage and setting;*
 - *Conservation areas and areas adjacent to a conservation area;*
 - *Historic parks and gardens;*
 - *Education and health institutions; and*
 - *Others including sites in the green belt, Sites of Importance to Nature Conservation (SINCS), Sites of Local Importance for Nature Conservation (SLINCS), Sites of Special Scientific Interest (SSSI), Scheduled Ancient Monuments and other archaeological remains.*
- 6.9. As per paragraphs 2.4 and 2.5 of the report, the site is not located within a designated conservation area or adjacent to it and there are no listed buildings in close proximity to the site. While a number of objections received from local residents referred to the site being located within the sensitive area and Bournville Village Conservation Area, this is not the case. The Bournville Village Conservation Area is located over 1km (0.7

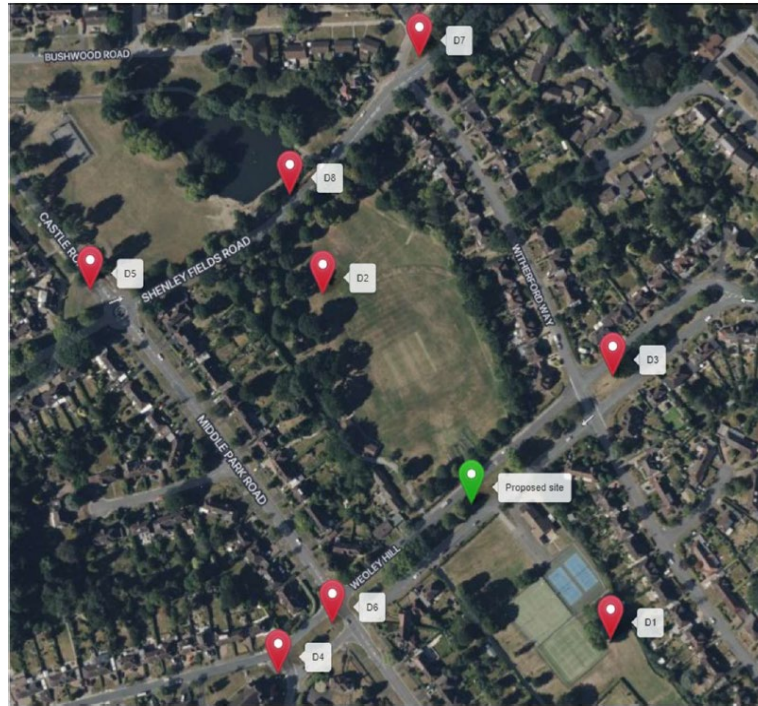
miles) from the application site. The site is also not located within or close to a Registered Park and Garden; the Green Belt; a Site of Importance to Nature Conservation (SINCS); a Site of Local Importance for Nature Conservation (SLINCS); a Site of Special Scientific Interest (SSSI), or a Scheduled Ancient Monument / area containing archaeological remains. Nor is the site located within the curtilage of education or health institution. As such, the application site is not located within 'the most sensitive' area.

- 6.10. The proposal would be located within a residential setting which is acknowledged as being a '*more sensitive*' area. Where applications are submitted in such areas, the City Council will require them to be accompanied by evidence confirming that no reasonable alternatives exist. For a new mast or base station, Paragraph 121 of the NPPF requires evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
- 6.11. A map showing the search area has been provided and a list of alternative sites have been included within the supporting statement submitted with the application.



(Figure 3: map showing search area as per submitted information)

- 6.12. The supporting statement states that the search of the area began with the identifications of the existing telecommunications site in the vicinity, of which there are none in the search area. The search then concentrated on the identification of suitable rooftop and greenfield locations. The buildings in the search area are predominantly residential dwellings and all low level and mostly pitched roofs that are unsuitable for this type of development. There are no tall buildings surrounding the application site and as such, consideration of the use of roof tops has been excluded by the applicant. In addition, there are no existing telecommunication sites in the search area that could be shared.



(Figure 4: map of discounted alternative locations)

- 6.13. The submitted information shows that the applicant considered 8 no. alternative locations within the search area. Some of the locations were discounted due to those alternative locations being more prominent in terms of the proximity to the residential properties and the proposal would be overlooked by properties on both sides and having greater impact on the residential amenity (D3, D5 and D6). Other alternative sites were discounted due to the alternative sites being close to more sensitive locations such as a church and locally listed United College of the Ascension (D4 and D7). Other sites were discounted due to the height of the trees that would impact on the coverage (D8), the alternative sites would not provide the level of coverage required (D1) or the location did not have the suitable physical access to the site, and it was not possible to agree commercial terms (D2).
- 6.14. It is considered that the submitted carried out search of the potential alternative sites is satisfactory, taking into consideration the surrounding area which is dominated by residential properties or playing fields. While the proposed monopole would be sited within a residential area, the application site has been chosen by the applicant as the least harmful option in terms of the proximity to residential properties. This location was chosen by the applicant because it offered the best option that would provide the most effective coverage, while not adversely affecting the amenity of the residential area.
- 6.15. While the proposed monopole would be sited within a residential area, it would not be directly opposite the dwellings and would be sited within the road island/central reservation. The nearest residential dwelling at No 85 Weoley Hill is located approximately 40m south of the site. This dwelling overlooks Cricket grounds and does not directly overlook the central reservation island. Other dwellings are located approximately 55-88m from the site. Additionally, there are a number of mature trees that line the road as well as the island which are approximately 13m in height and provide a substantial visual buffer between the site and residential properties. The distance separation, combined with the tree coverage, is considered sufficient and the

proposal would not therefore harm the outlook from those properties or impact on residential amenity.

- 6.16. Given the proximity of the proposal to a number of highway street trees, the opinion of BCC Tree Officer has also been sought. As originally submitted, the proposed site plan showed that the young birch tree would develop too close to the proposed cabinets. BCC Tree Officer advised that this tree should be relocated with transportation agreement. Additionally, the Officer advised that an Arboricultural Survey to BS5837:2012 standards shall be carried out to accurately determine the tree constraints and advise on the optimal positioning of the pole and cabinets.
- 6.17. The advice of the Tree Officer was conveyed to the applicant and an Arboricultural Impact Assessment (AIA) and an Arboricultural Method Statement (AMS) have been submitted during the life of the application. An arboricultural survey of all trees within the impacting distance of the site was undertaken covering a total of 12 individual trees. The AIA was prepared to balance the layout of the proposal against the competing needs of the trees. As a result, the pole and associated cabinets were repositioned northwest along the verge to avoid the root protection area and canopy of the adjacent horse chestnut. The young beech tree is being shown on the amended plans as being relocated approximately 7.5m northeast along the verge, towards the young oak tree. The AIA concluded that the overall quality and longevity of the amenity provided by the trees and tree groups within and adjacent to the application site would not be adversely affected by the proposed development.
- 6.18. The BCC Tree officer has assessed the submitted information and amended plans and raised no objections subject to a condition that the proposed development shall be undertaken and maintained in accordance with the submitted AMS. The Tree Officer is content that the submitted AIA, AMS and revised layout fully address previous concerns. With regards to the condition that has been recommended by the Tree Officer, this is a prior approval application, and the conditions are limited to deemed conditions within the Town and Country Planning (General Permitted Development) (England) order 2015 (as amended). As such, having regard to the tests for the imposition of conditions in Paragraph 56 of the NPPF a condition to this effect is therefore inappropriate. This requirement, however, has been added as an informative.
- 6.19. Transportation Development have assessed the proposal and raise no objections on highway safety grounds. A local engineer (Highways) have also been consulted and it was determined that the young beech tree can be relocated with a transportation agreement provided that the applicant funds the relocation. The transportation officer also advised the applicant to contact the District Engineer at the Edgbaston office to arrange those works should prior approval be granted, and this requirement has also been added as an informative.
- 6.20. The site is located in a highly visible location due to the presence of the main highway and the proposal would be visible when observed from any side of Weoley Hill by pedestrians and vehicular users. There are various street structures within the proximity of the site, including road signs, lamp posts, flood lights within the sport grounds and other telecom cabinets and as such, the proposed development would not appear as incongruous, isolated structure within this street scene. The proposed monopole would reflect the slim, vertical rhythm of the nearby lampposts but it would be distinguished by its greater height of 20m. It is recognised, however, that proposed monopole infrastructure would require 5G masts above the height of the surrounding buildings and trees so as to provide clear sightlines and greater coverage. As a consequence, screening can only be achieved to a certain degree. The site would be

partially screened from the view by the row of existing highway trees within this island so the visual intrusion of the mast would be reduced, and it would provide some level of screening from certain views within the area. Amended plans have also been submitted confirming that the equipment would be coloured green, which is considered a more suitable colour than grey for this location. As such, it is considered that the proposal would have moderate impact on visual amenity of the area.

- 6.21. While the proposal would have a moderate impact on the visual character of the area, the NPPF advises that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 118 of the NPPF further states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. As highlighted in Birmingham Design Guide SPD, the need of such development (which includes social and economic benefits) should be weighed on balance, against any detrimental visual impact they may cause on Birmingham's environment. I consider that in the absence of a more suitable alternative site in this search area, on balance, the benefits of the proposal and the need for the installation to be sited in this location, outweighs the limited harm that would occur to the appearance of the area.

Other issues

- 6.22. The representations received from local residents have been considered during the assessment process. Matters in relation to siting and appearance have been addressed above.
- 6.23. It is noted that objections have been received from members of public regarding the impact of the proposal on health and other matters not in relation to siting and appearance. **This is a prior approval application, and considerations are limited only to matters of siting and appearance.** With regards to health safeguards, a Certificate confirming that the proposed equipment complies with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) has been submitted with the application. The National Planning Policy Framework is clear in Paragraph 122 that Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure. The applicant has demonstrated, by way of an appropriate certificate, that the proposed installation would meet the standards of the ICNIRP for public exposure as recommended by Paragraph 122 of the NPPF and as such, the application is acceptable on the grounds of public health.
- 6.24. Finally, concerns have also been raised by local residents that the consultation was insufficient. The consultation process on the application was run in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO 2015) and the Council's Statement of Community Involvement.

7. Conclusion

- 7.1. I consider that the proposed development would be appropriate in terms of its siting and appearance in this location. The proposal by virtue complies with the requirements within Schedule 2, Part 16, Class A of the Town and Country Planning

(General Permitted Development) (England) Order 2015 (as amended) and there are no grounds upon which to refuse this Prior Approval application.

8. Recommendation

8.1. No Prior Approval Required.

Case Officer: Lucia Hamid

Photo(s)

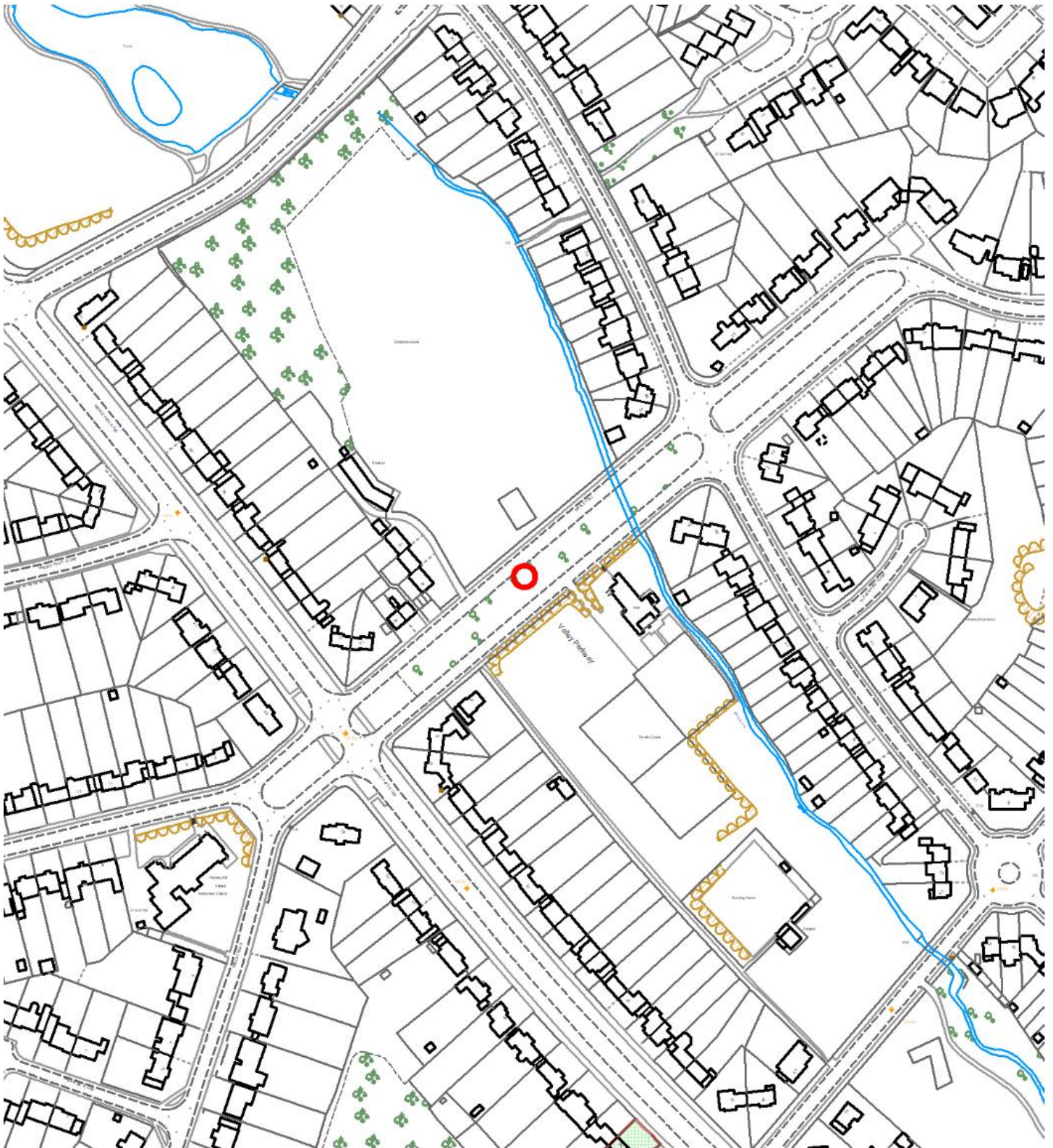


(Photo 1 - View of the site from Weoley Hill travelling north-east)



(Photo 2 - View of the site from Weoley Hill travelling south)

Location Plan



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| | | | |
|-----------------|------------|---------------------|---------------|
| Committee Date: | 03/10/2024 | Application Number: | 2024/04553/PA |
| Accepted: | 11/07/2024 | Application Type: | Householder |
| Target Date: | 11/10/2024 | | |
| Ward: | Quinton | | |

321 Worlds End Lane, Quinton, Birmingham, B32 2SA

Erection of single storey forward extension, first floor rear extension including Juliette balcony, installation of a rear dormer window including second floor side rooflight, partial rendering of property and replacement of rooflight with a new sky light on existing single storey rear extension

Applicant: Mr Sajjadur Sammy Rahman
321 Worlds End Lane, Quinton, Birmingham, B32 2SA
Agent: Manny Singh
Grosvenor House, 11 St Pauls Square, Birmingham, B3 1RB

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 This application is to be determined by Planning Committee because the applicant is a Council employee within the Place, Prosperity & Sustainability Directorate.
- 1.2 Consent is sought for the erection of single storey forward extension, first floor rear extension including Juliette balcony, installation of rear dormer window including second first floor side rooflight, partial rendering of dwelling and replacement of rooflight with a new sky light glass lantern on existing single storey rear extension.
- 1.3 The proposed first floor rear extension would be 2m in depth which would extend off the existing two rear extension which is 2m in depth at first floor level; results in an overall depth of 4m from the original rear elevation of the house. The extension would have a hipped roof design with matching roof tiles and render finish.

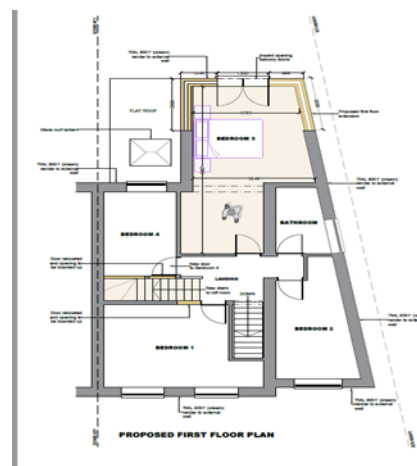
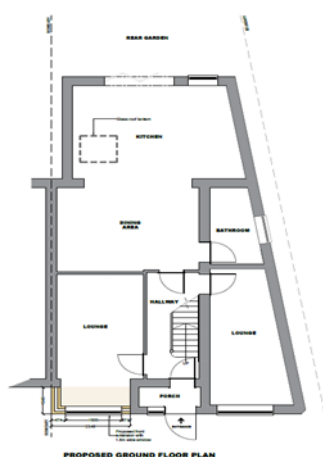


Figure 1 – proposed first floor layout plan Figure 2 - proposed ground floor layout plan

- 1.4 The proposed single storey forward lounge extension would be 1.045m deep; 2.54m in width and total height including the existing roof canopy would be 3.1m. The extension would have a brick finish to match existing forward extension.
- 1.5 The proposed flat roof rear dormer window would be 3.2m in width; 2.8m in height and 3.4m in depth. The dormer would have clad cheeks with clay hanging tile finish to match existing roof tiles.
- 1.6 The proposed cream render finish is to the first floor front, side and rear elevations of the dwelling including the extensions. The ground floor elevations of the dwelling including the extensions would remain a brick finish.



Figure 3 - existing front elevation



Figure 4 – proposed front elevation



Figure 5 – existing rear elevation

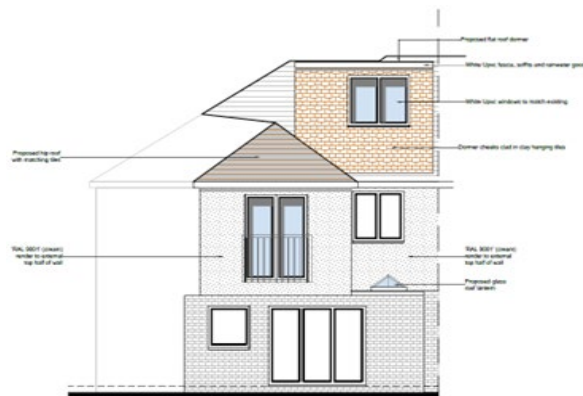


Figure 6 – proposed rear elevation

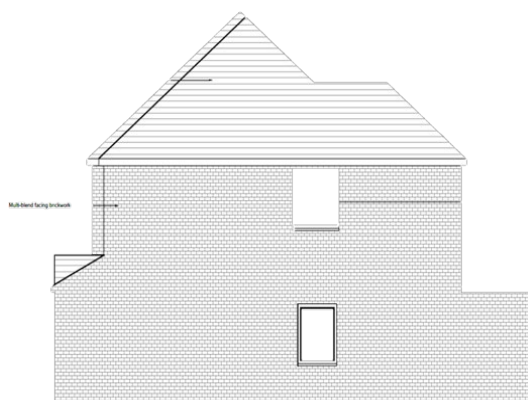


Figure 7 – existing side elevation

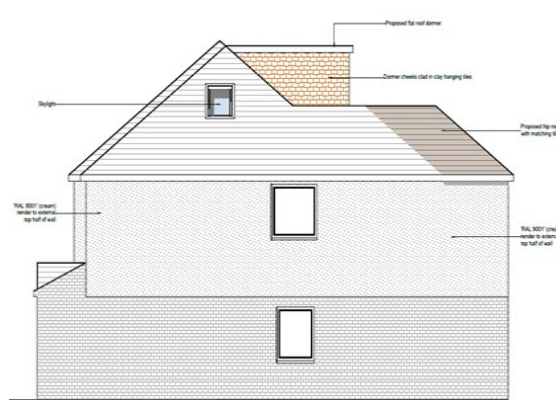


Figure 8 – proposed side elevation

[Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The application site comprises a semi-detached dwelling with a hipped roof design. The application property has been recently extended with a two storey side and rear extensions with Juliette balcony to rear, single storey rear and forward extensions including porch and front canopy (ref: 2021/06439/PA).
- 2.2. The application site is served by a predominately paved modest rear garden area. The boundary treatment to the site mainly consists of 2m wooden fencing which encompasses the entire rear curtilage of the site.
- 2.3. The adjoining semi-detached property No. 323 Worlds End Lane falls to the east of the application property. This neighbouring dwelling has had a hip to gable roof enlargement and has a large rear dormer window. The nearest affected rooms to this attached neighbour are two ground floor rear kitchen windows/glazed doors which both serve light to the kitchen area and nearest first floor rear window serves light to a bathroom.
- 2.4. The application site is bounded to the west by a vehicular access leading into World's End Infant and Nursery School. The school itself is set back significantly from the road frontage and as such the school is not read within the residential street scene context. The next nearest residential neighbour is at 319 Worlds End Lane located on the opposite side of the vehicular access to the school. 319 Worlds End Lane is a detached

dwelling with a gable-end roof design that is set back several metres from the application dwelling frontage.

- 2.5. The application dwelling is on a slightly higher ground level to the adjacent highway with a part sloping hardstanding driveway. The application boundary is splayed adjacent the school access-way with the rear garden narrowing in width towards the rear boundary.

[Site location](#)

3. **Planning History:**

- 3.1 44158000 – Detached Garage – Approved - 07/10/1976.
- 3.2 2021/06439/PA - Erection of two storey side and rear extension, Juliette balcony to rear, single storey rear and forward extensions including porch and front canopy and render to front elevation – Approved-Conditions - 28/10/2021.

4. **Consultation Responses:**

- 4.1. Neighbouring properties and Local Ward Councillors were notified for the statutory 21 days – no responses received.

5. **Relevant National & Local Policy Context:**

5.1. The following national policies are applicable:

- National Planning Policy Framework

5.2. The following local policies are applicable:

- Development Management in Birmingham (2021)
- Birmingham Development Plan (2017)
- Birmingham Design Guide (2022)

6. **Planning Considerations:**

- 6.1. The main planning considerations relate to the visual impact as well as impact on neighbouring residential amenity.

Impact on nearby neighbouring residential amenity

- 6.2. The proposed development complies with the 45 Degree Code and the numerical guidelines set out in Birmingham Design Guide SPD 2022, as a result there is no detrimental impact on neighbours light, outlook or private amenities.

Design and Character

- 6.3. The proposed first floor rear extension and rear dormer window would not detract from the architectural appearance of the property. It is considered the additional 2m deep first floor rear extension above part of the existing kitchen extension would not be an

excessive addition to the rear elevation of the dwelling. The proposed rear dormer would be smaller than the neighbouring dormer window at No. 323 Worlds End Lane and does not extend across the entire roof plane and does not overly dominate the rear elevation of the dwelling. The proposal would have no significant impact on the character of the existing dwelling or the visual amenity of the local area. It is also noted that there are other two storey rear extensions and rear dormers visible in the surrounding area.

- 6.4. The single storey forward lounge extension which would be the same depth as the existing forward extension and infill the section below the existing canopy roof would have no significant impact on the character of the dwelling or forward street scene. There are several other full width single storey forward extensions visible on Worlds End Lane and in the surrounding area.
- 6.5. The proposed render to the first floor elevations of the house including extensions would not detract from the architectural appearance of the property. The proposal would not have a detrimental impact on the street scene which comprises of a mix of brick and rendered properties. The proposed elevations drawing No. 1001-08 and the 3d 'external perspective' shows the proposed external finishes and the proposed Monocouche cream colour render is acceptable. Overall the proposal would be in accordance with the principles contained within Birmingham Design Guide SPD 2022.

7. **Conclusion**

- 7.1. This application is recommended for approval as the proposed development complies with the objectives of the policies that have been set out above.

8. **Recommendation:**

- 8.1. Approval subject to the following conditions:

-
- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Implement within 3 years (Full)
 - 3 Removes PD rights for new windows
 - 4 Requires the Juliette balconies to be inward opening
-

Case Officer: Ricky Chima

Photo(s)



Photo 1 - Front Elevation

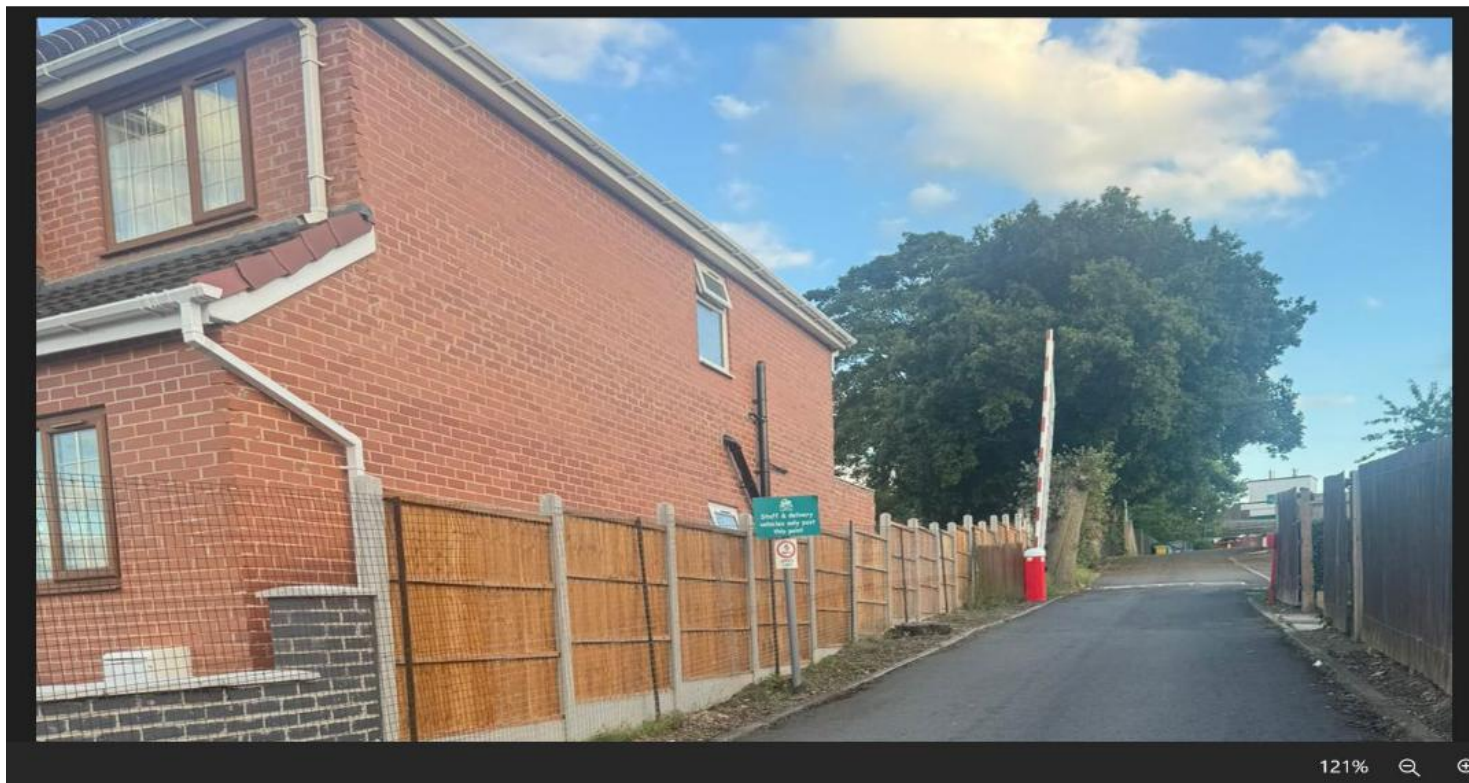


Photo 2 – Side Elevation



Photo 3 – Rear Elevation



Photo 4 – Rear Elevation of No. 323 Worlds End Lane

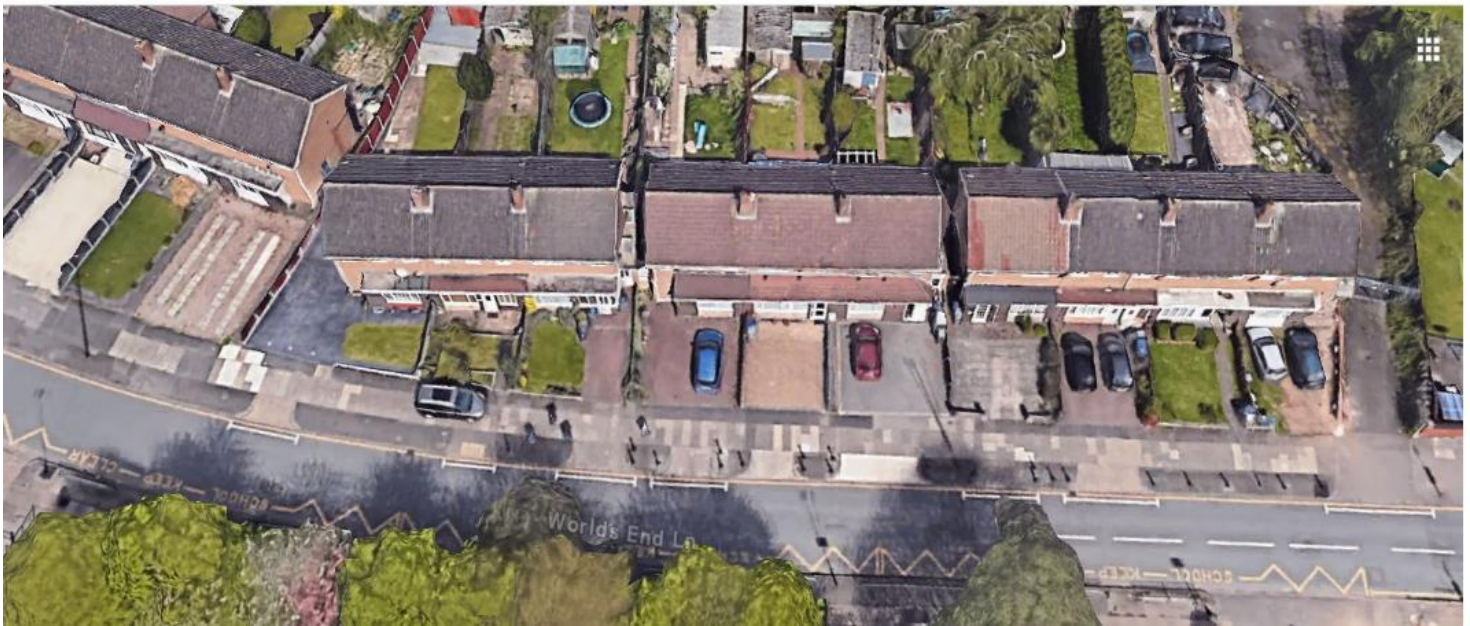
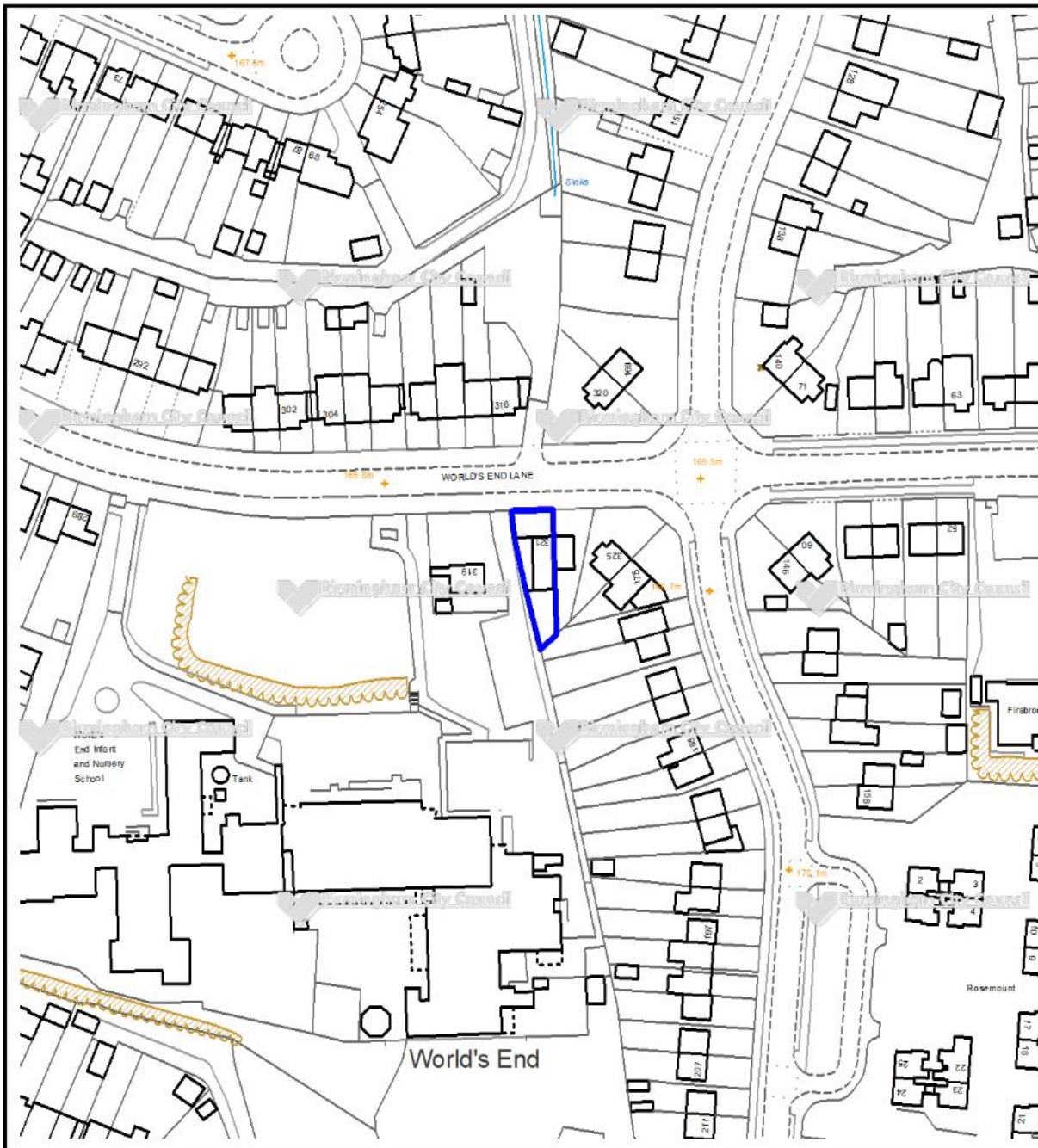


Photo 5 – Street scene

Location Plan



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Birmingham City Council

Planning Committee

03 October 2024

I submit for your consideration the attached reports for the **North** team.

| <u>Recommendation</u> | <u>Report No.</u> | <u>Application No / Location / Proposal</u> |
|---|-------------------|--|
| Approve – Conditions | 9 | 2024/03302/PA 173-175 Soho Road Handsworth Birmingham B21 9SU Change of use of the ground and first floor from a retail unit (Class E) to an Adult Gaming Centre (Sui Generis) with first floor associated storage and staff area including external alterations and associated works |
| Approve – Subject to Section 106 Legal Agreement | 10 | 2024/03683/PA Four Oaks Junior and Infant School Edge Hill Road Sutton Coldfield Birmingham B74 4PA Demolition of existing buildings and erection of new two storey school building, relocation of existing playing fields, and provision of new car and cycle parking, landscaping, amenity areas, plant and other associated works. |
| Approve | 11 | 2018/03568/PA Land at former Comet PH Collingbourne Avenue Hodge Hill Birmingham B36 8PE Proposed change to agreed Section 106 Legal Agreement relating to planning permission 2018/03568/PA – Erection of 20no. dwellings with associated landscaping and external works, land at former Comet PH, Collingbourne Avenue, Hodge Hill, Birmingham B36 8PE |

| | | | |
|-----------------|--------------------------|---------------------|---------------|
| Committee Date: | 03/10/2024 | Application Number: | 2024/03302/PA |
| Accepted: | 24/05/2024 | Application Type: | Full Planning |
| Target Date: | 04/10/2024 | | |
| Ward: | Soho & Jewellery Quarter | | |

173-175 Soho Road, Handsworth, Birmingham, B21 9SU

Change of use of the ground and first floor from a retail unit (Class E) to an Adult Gaming Centre (Sui Generis) with first floor associated storage and staff area including external alterations and associated works

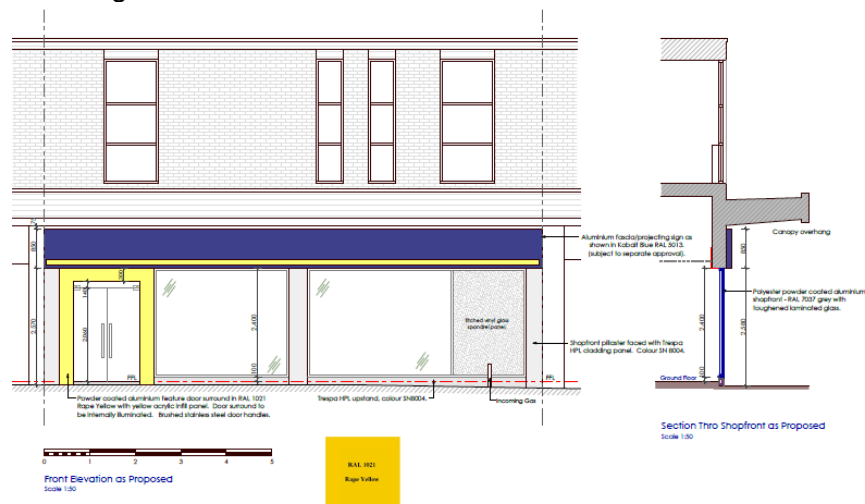
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| Applicant: | Luxury Leisure Fifth Avenue Plaza, Queensway, Team Valley Trading Estate, Gateshead, Tyne and Wear, NE11 0BL |
| Agent: | Bradley Hall Ltd 1 Hood Street, Newcastle-upon-Tyne, Tyne and Wear, NE1 6JQ |

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 This application is for the change of use of the ground and first floor from a vacant bank premises (Class E) to an Adult Gaming Centre (Sui Generis) with first floor associated storage and staff area including external alterations and associated works. The application description refers to a change of use from retail (Class E). Both retail and banks fall under Use Class E.
- 1.2 The change of use would incorporate a storeroom, an office, staff room and a W/C over both floors in addition to the gaming area being introduced on the ground floor.
- 1.3 External alterations would include changes to the glazing on the front elevation and relocating the entrance as well as A/C extraction units to be fitted to the rear of the application building.



Proposed Soho Road frontage

- 1.4 The proposed hours are 24hours 7 days a week.

- 1.5 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The application site is currently a vacant bank unit and is within a parade of other Class E uses. The application site is on Soho Road which is a mixed-used area and is within a district centre, consisting of both commercial and residential properties.

3. **Planning History:**

- 3.1 This site – none of relevance.

- 3.2 272a Soho Road – 2021/09176/PA. Change of use of ground floor from retail (Use Class E) to and Adult Gaming Centre (AGC) (Sui Generis). Refused 20/10/22 on the grounds of increased fear of crime and anti-social behaviour, against officer recommendation. This decision was not appealed.

4. **Consultation Responses:**

- 4.1. Transportation Development raise no objections.
- 4.2. Regulatory services - no objections subject to operating time of 08:00 until 00:00 Monday to Sunday and noise levels from plant and machinery being controlled.
- 4.3. West Midlands Police object to the proposal on the grounds that the proposal will adversely impact on the location and will further impact on crime and the fear of crime around the location. The representation includes reports from both the Lozells and East Handsworth and Soho Road Neighbourhood Policing Teams based upon the Policing experience of these areas. If minded to approve, conditions are recommended on opening hours up to 22:00, CCTV and security measures such as physical security deterrent and secure by design.

5. **Third Party Responses:**

- 5.1. Residents, Neighbourhood Forums and Associations, and ward councillors were notified. A site notice was displayed. 103 letters of objection were received including an objection from the Soho BID, Antrobus Road Residents and Councillor Chaman Lal.
- 5.2. The BID objects to the proposal for the following reasons:
- Proposal creates an unsafe environment;
 - Increased anti-social behaviour within the area; and
 - The safety of local residents.
- 5.3. Councillor Chaman Lal objects to the proposal for the following reasons:
- Detrimental to the wellbeing of the local area; and
 - Brings no benefit to the wider area.
- 5.4. 103 Objections were submitted which related to:
- Creating an unsafe environment;
 - Having a negative impact upon the local area;
 - Increase in Anti-Social behaviour; and
 - Influx of betting stores within the Local Centre.

6. **Relevant National & Local Policy Context:**

a. National Planning Policy Framework

- Paragraph 86 states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
- Paragraph 130 states that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, and where crime and disorder, and the fear of crime do not undermine the quality of life or community cohesion and resilience.

b. Birmingham Development Plan 2017

The application site is identified as being within a Local District Centre in the Birmingham Development Plan 2017 and relevant Policies are:

- Policy PG3 Place Making
- TP21 The Network and Hierarchy of Centres
- TP24 Promoting a Diversity of Uses within Centres

c. Development Management DPD: (if relevant)

- DM2 Amenity of the DMB-PDP

d. Supplementary Planning Documents & Guidance:

- Birmingham Design Guide.
- Car Parking SPD

7. **Planning Considerations**

- 7.1. *Principle* - The site forms part of Soho Road District Centre and falls within its primary shopping area. BDP policy TP21 sets out the City's network and hierarchy of centres and states that these centres will be the preferred locations for retail, office and other development such as leisure, education, community uses. An Adult Gaming Centre (AGC) is not listed within the NPPF as a main town centre use; however, it does share many characteristics with other uses which attract visiting members of the public. Therefore, the siting of this use within a defined centre is considered appropriate in principle.
- 7.2. The proposal would not result in the loss of a retail unit as the former use of the application site was as a bank. Notwithstanding this, the most recent Shopping and Local Centres SPD Monitoring Report carried out in 2024 identified that there were some 257 units within the Primary Shopping Area, of which 65% were in retail use. Policy TP24 states that 55% of ground floor units in District Centres should be retained in retail use. There are existing betting shops located at 154a, 198, 209/211 and 262 Soho Road and they are not clustered together. In conclusion, there are no issues identified with regards to the mixture of retail and other uses in this centre.
- 7.3. *Visual Amenity* - The applicant has proposed alterations to the front of the site which are appropriate for this unit within this commercial context. The proposed A/C condenser units to the rear would not have a negative impact upon the building and are acceptable with regards to visual amenity.
- 7.4. *Residential Amenity* - The application site is within the Soho Road Local Centre. The main source of noise would be from customers' coming and goings and it is reasonable to expect that this would not result in noise nuisance as this is commonly seen within a busy district centre where the background noise is high due to noise from road traffic and commercial activities.

- 7.5. The applicants are seeking a 24hrs 7 days a week operation. However, considering Regulatory Service's technical advice that Soho Road is not a 24hrs 7 days a week centre, a condition restricting opening hours to between 8:00 – 00:00 is more appropriate to safeguard neighbour amenity and be consistent with other licenced premises.
- 7.6. *Highway Safety* - The proposal is unlikely to cause any risk to highway safety around the application site. There is sufficient parking provision within the vicinity for the site and Transportation Development raise no objection. Taking this into consideration the proposal is seen as acceptable.
- 7.7. *Crime and Safety* - Objections have been received relating to the negative effect the gaming centre will have on the residents of the local area, an increase in anti-social behaviour, an increase in crime within the local area and the safety of residents.
- 7.8. West Midlands Police have raised an objection due to the proposal having an adverse impact on the location and will further impact on crime and the fear of crime around the location.
- 7.9. Comments from the Lozells and East Handsworth Neighbourhood Policing Team highlight problems surrounding loitering, drinking and the abuse of alcohol that causes anti-social behaviour and fear to local shop owners and school children. It adds that there are a lot of licensed premises selling alcohol and betting shops, which causes groups of adults to loiter on the street. A location where people who gamble and drink loiter is a few minutes' walk from the application site. There is concern that the application site would become an attraction, and the location does not fit another gambling establishment. It is at a lower level that the main road and the area has the potential for groups to loiter and commit anti-social behaviour. The only positive is that a premises would be in use rather than left void. There are dedicated patrols at certain times in a specific location which is tailored to reduce violence and offending with weapons. The application site falls within this patrol area. There is also a Public Space Protection Order (PSPO) which is aimed at curbing anti-social behaviour, and Soho Road in the main location.
- 7.10. Comments from the Soho Road Neighbourhood Team identify that the area sees a high volume of anti-social behaviour, including Waverhill Park which sees drug usage, street drinking as well as loitering. Waverhill Park is a two-minute walk from the application site and a licensed premises within walking distance will undoubtedly see an increase in such activities. An adult gaming centre may increase the vulnerabilities of people with alcohol and drug addictions, in an attempt to make money to fuel their addictions. Having a location that provides money as winnings also exacerbate existing issues with robberies on and off public transport. Premises like these experience ASB and assaults on staff generally as a result of entry being refused or large losses of money. It is anticipated that the proposal is going to increase offences.
- 7.11. In support of the application, the applicants state that "There is no evidence to suggest such uses cause problem gambling or contribute towards other negative health and wellbeing outcomes. They offer a safe and monitored environment for visitors to game as a quasi-social activity... alleged risks to problem gamblers, young people and other vulnerable persons are matters relevant to licensing and management functions, not planning".
- 7.12. The applicant has submitted a Security and Social Policy Document within their Planning Statement where they have proceeded to include details on how the proposed use would operate to ensure the safety and security of the site and its customers as well as safeguarding the adjoining neighbouring occupiers. It highlights

that Adult Gaming is a regulated industry aimed at individuals over the age of 18 years old. Children entering such venues are prohibited by law. It adds that the operation of adult gaming centre is subject to Licence Conditions and Codes of Practice from the Gambling Commission which address matters such as protection of children and other vulnerable persons, access to premises and age checks, responsible gambling etc. As such the proposed use would be subject to a separate licensing regime that would need to demonstrate how the use would be operated in a manner that would address concerns around matters such as anti-social behaviour, criminal behaviour, drug taking, drunkenness and encourage an increase in gambling.

- 7.13. Crime and the fear of crime are a material consideration. They must be shown to be reasonable and justified to be a material consideration. This is a matter that is commonly raised with applications relating to such uses and there are a number of appeals that discuss the issue. Relevant sections of the decision are detailed below.
- 7.14. 2022/02444/PA related to a change of use of a bank to a betting shop at 56 High Street, Erdington and was refused on the viability and vitality of the local centre as well as anti-social behaviour. The Inspector did not observe any anti-social behaviour outside any of the existing betting offices, or any particularly significant signs of anti-social behaviour or public nuisance along the High Street. Adding that the betting offices appeared to be well maintained and had no reason to believe the proposed betting shop would be similarly well-maintained and managed.
- 7.15. Furthermore, the Inspector added *“The Erdington Neighbourhood Policing Team refer to the wide demographic of the area, including people recovering from addictions whereby a betting shop could add temptation and lead to a spike in crime. However, no crime reports, data or evidence has been submitted to demonstrate a link between crime levels or anti-social incidents associated with existing betting offices, or that an additional betting office would significantly increase such behaviours. Vulnerable persons in the area already have access to a number of betting offices and amusement and gaming centres on Erdington High Street, as well as off-licences and public houses in the area... in the absence of evidence to the contrary the data before me would indicate there is no direct correlation between betting offices and anti-social behaviour and/or increase in crime in the area*

Furthermore, there are licensing regimes to regulate gambling. Indeed, the Police advice that the use as a betting office would be regulated and licensed and many of the issues raised by objectors would fall under licensing obligations on the part of the operator. Any breaches of the licence conditions would bring their own sanctions”.

- 7.16. The Inspector concluded that the proposal would not directly lead to an increase in anti-social behaviour, or that fear of crime would be a material consideration upon which to withhold planning permission and allowed the appeal.
- 7.17. 2018/09039/PA related to a change of use to an amusement arcade at 54-57 High Street, in the City Centre, and was refused on the grounds of the increase opportunities for crime and fear of crime as well as the design of the shopfront. The Inspector recognised that the appeal site is within an area where there are a disproportionately high number of calls to West Midlands Police relating to criminal activity and acts of anti-social behaviour. Also, there is in place a Public Space Protection Order which includes the appeal site due to environmental issues such as misuse of telephone kiosks and large numbers of bus stops and benches nearby where people can loiter. The inspector highlighted that *“Whilst the Council and the police consider that the proposed change of use would have an exacerbating impact on the existing levels of anti-social behaviour, there is limited evidence to show that the appeal proposal would facilitate or increase the likelihood of criminal activities occurring. There are issues with crime in the area and the presence of the empty unit is not assisting in managing*

any crime issues. The occupation of a currently vacant unit would be likely to provide some natural surveillance and remove the opportunity for groups to gather outside a vacant shop. The presence of CCTV which can be conditioned would provide some monitoring and may act as a deterrent for anti-social behaviour...

The police have objected to the appeal proposal on the basis that the number of calls relating to gambling industry establishments is high and that the proposed use would adversely impact upon the location and crime and fear of crime. There is however limited evidence that the appeal proposal would facilitate or increase the likelihood of these activities..."

The Inspector concluded that, subject to conditions, the proposal would not increase opportunities for crime and fear of crime and allowed the appeal.

- 7.18. 2022/09551/PA related to a change of use to an Adult Gaming Centre at 750 Bristol Road South. Whilst the application was refused on the grounds of the viability and vitality of Northfield District Centre, the matters of increase crime, anti-social behaviour and gambling addition were raised. In response the Inspector noted that *"According to the West Midlands Police, crime incidents recorded within the vicinity of the appal site could not be attributed to the existing AGCs"*. The appeal was allowed and in awarding costs against the Council for unreasonable behaviour the Inspector highlighted *"The Committee Report noted that the proposal complied with Policy and would assist in retaining investment in the area. The Committee Meeting minutes does not include the contents of members discussions only their recommendation. However, the appellant's transcription of some of the members' comments indicates that they centred on issues relating to anti-social behaviour, problem gambling and the fear of crime, rather than viability concerns. The Council's Statement focuses on justifying the Officer's case for recommending restricted opening hours and provides no evidence to demonstrate the effect of the proposal on the vitality and viability of the centre to substantiate the reason for refusal"*.
- 7.19. In terms of this appeal, it is recognised that each proposal must be determined on its own planning merits, but at the same time the similarities that can be drawn from these appeal decisions are relevant and must also be taken into consideration.
- 7.20. It is clear that the wider locality of the application site experiences existing high levels of crime and anti-social behaviour and is understandably an area for concern. Furthermore, it is recognised that such uses could represent an attraction for some of the most vulnerable in society. Within their submission, West Midlands Police has provided evidence of calls to an existing AGC within the City Centre over a 3-year period, with approximately half of these occurring after 2200hours. A Statement by the Neighbourhood Policing Team indicates that 3 existing betting shops in the proximity of the application site do not directly create issues and, where issues do arise, they rarely spill out on to the street.
- 7.21. It is also noted that the area is currently subject to dedicated patrols and there is a PSPO in place. This order provides the Police and Council Officers with additional powers across a defined geographical area, to tackle a wide range of anti-social behaviours. The order requires that any person found in breach with drug or alcohol issues will be referred to the appropriate Drug and Alcohol rehabilitation services. Furthermore, any person found in breach for begging will be referred to the Street Intervention Team for housing and benefit support. Furthermore, adult gaming centres are subject to Licence Conditions and Codes of Practice from the Gambling Commission which address matters such as protection of children and other vulnerable persons, access to premises and age checks, responsible gambling etc. It would be subject to a separate licensing regime that would need to demonstrate how the use would be operated in a manner that would address concerns around matters such as

anti-social behaviour, criminal behaviour, drug taking, drunkenness and encourage an increase in gambling. It is not the role of the planning system to regulate these matters.

- 7.22. Therefore, in the absence of substantive evidence showing a direct correlation between the proposed use and anti-social behaviour and/or an increase in crime, it is considered that on balance a reason for refusal could not be sustained.

8. **Conclusion**

- 8.1. Concerns over the potential for an increase in anti-social and criminal behaviour in an area that is already affected by such activities is fully recognised. However, in the absence of substantive evidence that the proposed use in this location will have an adverse impact, it is considered that on balance and to be consistent with relevant appeal decisions highlighted in the report, a reason for refusal could not be defended. It is also important to acknowledge the role of the separate licensing regime for such uses/premises.
- 8.2. Furthermore, the proposal would introduce a use visited by members of the public into a vacant premises within a local centre. In addition, with the reduced opening hours as well as other safeguarding conditions, the impact on neighbour amenity and highway safety would be acceptable.

9. **Recommendation:**

- 9.1 Approve subject to conditions.

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- | | |
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| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Limits the hours of operation (0800-0000) |
| 4 | Limits the noise levels for Plant and Machinery |
| 5 | Requires the submission of a CCTV scheme |
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Reason for Approval

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- | | |
|---|---|
| 1 | Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply. In this case that the development is considered to be below the de minimis threshold. |
|---|---|
-

Case Officer: Hamzah Rehman

Photo(s)

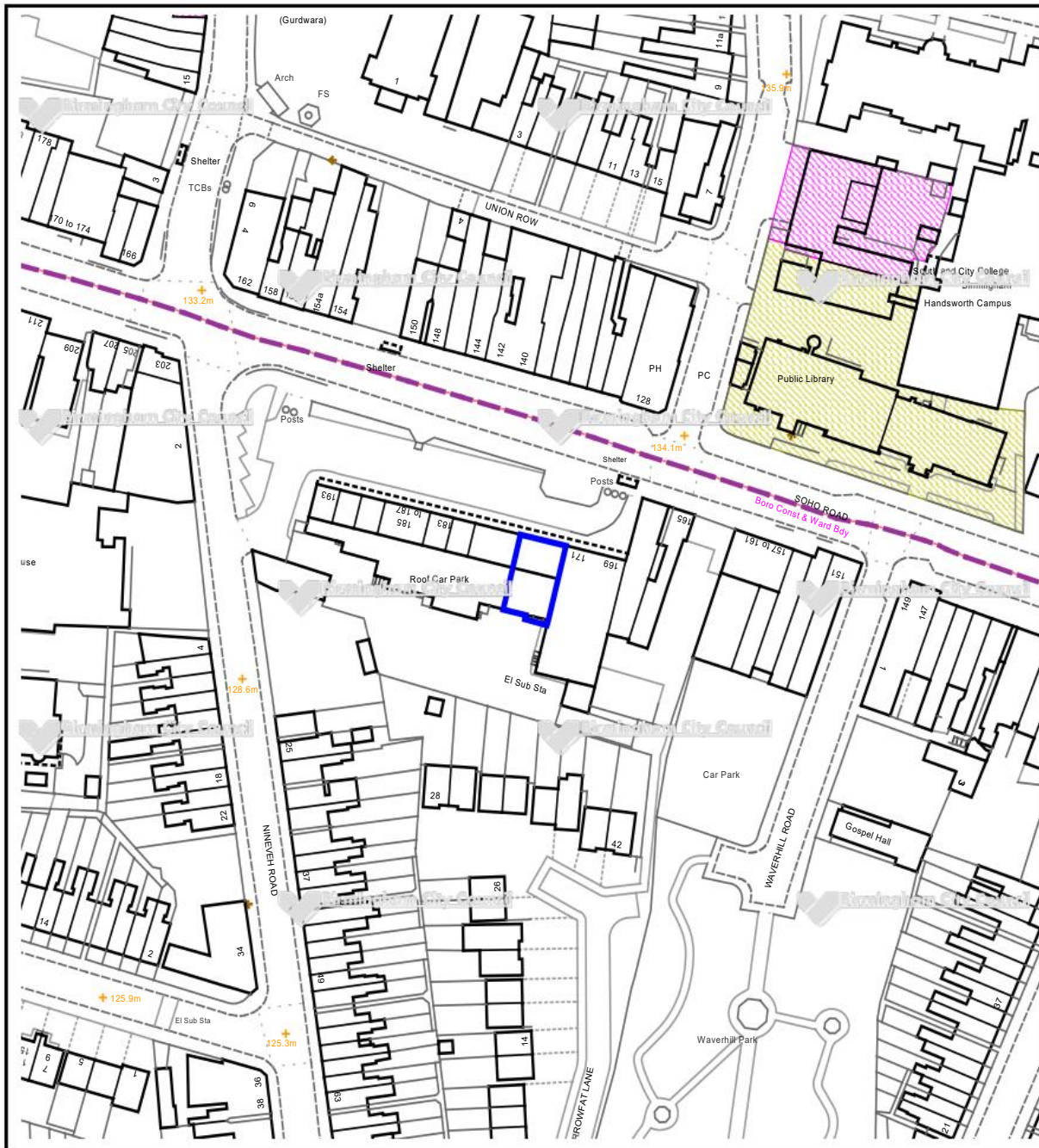


View from service road



View from Soho Road

Location Plan



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| Committee Date: | 03/10/2024 | Application Number: | 2024/03683/PA |
| Accepted: | 10/06/2024 | Application Type: | Full Planning |
| Target Date: | 05/10/2024 | | |
| Ward: | Sutton Four Oaks | | |

Four Oaks Junior and Infant School, Edge Hill Road, Sutton Coldfield, Birmingham, B74 4PA

Demolition of existing buildings and erection of new two storey school building, relocation of existing playing fields, and provision of new car and cycle parking, landscaping, amenity areas, plant and other associated works.

| | |
|------------|---|
| Applicant: | Tilbury Douglas Construction Ltd 1st Floor - T3 Trinity Park, Solihull, West Midlands, B37 7ES |
| Agent: | Q+A Planning Ltd Tribeca House, 25 Dale Street, Manchester, M1 1EY |

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. **Proposal**

- 1.1. Planning permission is sought for redevelopment of Four Oaks Primary School. The development involves the demolition of the existing buildings on site and erection of a new two storey school building, creation of multi-use games areas (MUGAs) to the north-east of the new school, car and cycle parking, landscaping, amenity areas and other associated works.
- 1.2. The demolition of the existing school and construction of the new building and associated development would be in different phases. This is required to continue the operation of the school. The 2-storey education building would be constructed first before demolition of the other school buildings to maintain normal operation of the school. The building would be L-shaped to comprise red/brown brick materials at ground floor level and pale render at first floor level. The building would have grey aluminium windows and a green flat roof with PV panels, which would comprise a modern and contemporary design.
- 1.3. Numbers of pupils and staff would remain unchanged; 420 primary school pupils, aged to 11 years with 47 staff (full time equivalent staff numbers at a total of 29).
- 1.4. The school's proposals for core term-time operational hours are for the following arrangements:
 - Weekday: Core School Hours 0900-1530
 - Weekday: Key pupil arrival / departure times 0830-0900 & 1500-1545
 - Weekday: Wider School Hours (for staff, before & after school care club (FOSBACS), sports, clubs, evening events etc) 0700-1800

- Saturday: Proposed Wider School Hours (for activities, lettings, events, etc) 0800-1300
 - Sunday: Proposed Wider School Hours (for activities, lettings, events, etc) 0800-1300
- 1.5. The school already hosts a wide range of extra-curricular activities for the pupils. This includes netball, football, drama, academic clubs, gardening.
 - 1.6. The school has a before and after school childcare facility - known as 'FOSBACS', which currently operates from the Acorn Suite, which will be transferred to the new school building.
 - 1.7. There are several community groups that use the site including a drama club, a netball club and football / gymnastics camps in the summer holidays.
 - 1.8. The school intend to expand this offering to the community in a safe and secure way. Out of hours access arrangements will be managed so that the school remains safe and secure while allowing ease of use from the wider community.
 - 1.9. Off-street parking provision would remain at 44 car parking spaces, including 2 accessible bays and one bay with a double EV charging point. The main pedestrian and vehicular access point will remain at Edge Hill Road. Additionally, pedestrian access will also be facilitated via the existing access points on Russell Bank Road at the southern boundary of the site. All servicing will be undertaken on site with sufficient space for vehicles to enter and exit the site in a forward gear. Cycle storage will be improved at the site to provide 52 spaces.
 - 1.10. The application is accompanied with a Planning Statement, Design and Access Statement, Flood Risk Assessment, Drainage Strategy, Ground Investigation Reports, Noise Assessment Report, Preliminary Archaeology and Heritage Survey, Preliminary Ecological Appraisal, Bat Survey Report, Biodiversity Metric Assessment, Transport Statement, Travel Plan, Tree Constraints Plan, Arboricultural Impact Assessment, Arboricultural Method Statement, Construction & Demolition Method Statement, Phasing Plans, Sustainable Construction Statement, BREEAM Pre Assessment Report, Building Condition Survey, Lighting Strategy and Air Quality Feasibility Study.
 - 1.11. The submitted construction and demolition method statement has been amended since submission to include delivery route for construction traffic to ensure all construction traffic travel via Walsall Road to avoid the residential areas and take account of a 7.5 tonnes weight limit on Rosemary Hill Road.
 - 1.12. SUDs drainage details were amended to satisfy LLFA requirements.
 - 1.13. [Link to Documents](#)

2. **Site & Surroundings**

- 2.1. The application site comprises an area of approximately 2.55ha. The topography is gently sloping with a 2-3m level difference across the site running from north to south with localised banking associated with the southern boundary. The existing site is roughly rectangular with the northern edge defined by Edge Hill Road and other boundaries shared with adjacent residential properties. The site contains two main flat roofed buildings, which are predominantly single storey with the eastern building having two storey elements. The Just for Starters Nursery is located outside of the red line boundary, close to the southern boundary between the main school buildings with a dedicated access from Russell Bank Road. The temporary classrooms (Acorn Suite) is sited between the two main buildings, which provides wrap-around care and playgroup preschool facilities.
- 2.2. A hard sports area is located close to the Edge Hill Road boundary on the western side the school grounds with soft outdoor PE area located in the south eastern corner of the school grounds. A number of play areas and elements of play equipment are spread across the site. Separate tarmac playground areas are provided to each of the main school buildings with parking set between these buildings with vehicle and pedestrian access from Edge Hill Road.
- 2.3. There are a number of substantial trees and other vegetation along the perimeter of the school boundary in addition to some trees within the site, which form part of the existing landscape features of the school. There are no Tree Preservation Orders affecting the application site, however, there are two Tree Preservation Orders on third party land boundaries adjacent to the south-east corner and western boundaries of site.
- 2.4. A single vehicular access serves the site from Edge Hill Road.
- 2.5. The surrounding area is predominantly residential in character.
- 2.6. The school is highly accessible by public transport and active travel opportunities.
- 2.7. Link to [‘Site location’](#) (google maps)



3. **Planning History**

- 3.1 There is no recent relevant planning history. However, temporary planning permission (2004/07122/PA) was given for mobile classrooms (Acorn Suite), which has lapsed since 2015. The temporary buildings are still in situ, but are intended for removal as part of the re-development scheme.

4. **Consultation**

- 4.1. Transportation Development - No objection, subject to conditions preventing construction vehicles parking outside of the school site, school travel plan to be finalised with BCC Behaviour Travel Demand Management Team, secure covered cycle provision, disabled parking and EV charging points. The proposal does not include any major alterations to the highway access to the site nor any increase in numbers at the site.
- 4.2. Regulatory Services - No objection subject to conditions requiring a contamination remediation scheme, contamination land verification report, odour extraction details, noise levels of plant and machinery and restriction in hours of use of the MUGA & sports pitches.
- 4.3. Local Lead Flood Authority (LLFA) – No objection subject to conditions.
- 4.4. Sutton Coldfield Town Council – No objection.
- 4.5. Severn Trent Water – No objection subject to condition requiring submission of surface water and foul drainage details.
- 4.6. Sport England – No objection subject to conditions for replacement playing fields in accordance with the TGMS report, maintenance of such and a community use agreement.
- 4.7. City Design – Comments that render is not the dominant material in the area and brick should be used to reduce future maintenance.
- 4.8. Ecology – No objection subject to S106 for BNG monitoring. Pre-commencement condition for a further bat survey (if work not commenced by 31 May 2025). Conditions for implementation of Construction Ecological Management Plan, scheme for ecological biodiversity enhancement measures, landscape ecological management plan (LEMP), implementation of landscaping, scheme for bird/bat boxes and biodiversity roof condition.
- 4.9. West Midlands Police – No objection
- 4.10. West Midlands Fire Services – No objection
- 4.11. Tree Officer - No objection
- 4.12. Planning Policy Comments – No objection.
- 4.13. Education Infrastructure Team – Support the project.

5. **Third Party Responses:**

- 5.1. The application has been publicised by site notices and press notice in addition to notification letters which were sent out to adjoining neighbouring occupiers, residents' associations, Ward Councillors and Local MP.
- 5.2. 6 No. representations have been received from local residents, making the following comments:
- The new school will be close to residential boundaries.
 - Loss of privacy into residential gardens.
 - Demolition noise will cause disruption to surrounding residents.
 - What are hours of construction?
 - What construction measures be used to ensure safety of children?
 - What measures have been taken to make the school carbon neutral?
 - There is insufficient early years provision within the area.
 - Loss of the Acorn Suite and Four Oaks playgroup.
 - Loss of 12+ full time jobs from the pre-school facility.
 - Birmingham Council are wasting money demolishing the pre-school asset.
 - Installation of Swift bricks to encourage the Swift bird population.

6 **Relevant National & Local Policy Context:**

- 6.1 National Planning Policy Framework:
- Section 2 – Achieving sustainable development; Paragraph 7 -9
 - Section 3 – Decision making; Paragraph 38, Paragraph 47, Paragraph 55-57
 - Section 8 – Promoting healthy and safe communities; Paragraph 96-97, Paragraph 99
 - Section 9 – Promoting sustainable transport; Paragraph 110 - 112
 - Section 11 – Making effective use of land; Paragraph 124
 - Section 12 – Achieving well-designed places; Paragraph 131 – 140
 - Section 14 – Meeting the challenge of climate change, flooding and coastal change; Paragraph 157- 164, Paragraph 173-175
 - Section 15 – Conserving and enhancing the natural environment; Paragraph 180, 185 - 186
- 6.1 Birmingham Development Plan 2017:
- PG3 – Place making
 - TP36 – Education
 - TP1 – Reducing the City's carbon footprint
 - TP2 – Adapting to climate change
 - TP3 – Sustainable construction
 - TP4 – Low and zero carbon energy generation
 - TP5 – Low carbon economy;
 - TP7 – Green infrastructure network
 - TP8 – Biodiversity and geodiversity
 - TP9 – Open space, playing fields and allotments
 - TP9 – Open space, playing fields and allotments
 - TP11 – Sports facilities
 - TP39 – Walking
 - TP40 – Cycling
 - TP44 – Traffic and congestion management
- 6.2 Development Management in Birmingham DPD:
- DM1 – Air quality
 - DM2 – Amenity

DM3 – Land affected by contamination, instability and hazardous substances; DM4 – Landscaping and trees
DM5 – Light pollution
DM6 – Noise and vibration
DM14 – Transport access and safety
DM15 – Parking and servicing

- 6.3 Supplementary Planning Documents & Guidance:
Birmingham Design Guide SPD (2022)
Birmingham Parking SPD (2021)

7 **Planning Considerations**

Principle:

- 7.1 The NPPF at paragraph 103 states that local planning authorities should take a proactive, positive, and collaborative approach to ensure that a sufficient choice of school places are available to existing communities. The BDP 2017 Policy TP36 is to support creation of high-quality learning environment. This Policy states that the proposals for the upgrading and expansion of existing schools and development of new schools would be supported subject to the provision of safe access, safe drop-off/pick-up provision and outdoor sport and recreation facilities without conflicting with adjoining uses. The site is an established school within a residential area surrounded by residential properties. The proposal is to create a 2-storey building by demolishing one and two storey buildings on site to streamline the built form of the school and to provide an improved education facility. The proposal includes two MUGAs - improved outdoor sports pitch provision (5 a side and 7 a side football). The proposal also includes associated development which includes landscaping and off-street parking provision. Therefore, the principle of development is considered acceptable subject to compliance with other plan policies, in particular, BDP and DMB-DPD Policies related to design and character, residential amenities, highways, trees and ecology, and other wider environmental issues. The detailed assessment has been provided in the later sections of this report.

Design and Layout:

- 7.2 The proposed school, which comprises a predominantly 9.8m high flat roofed 2-storey L-shaped building would be located towards the south-western part of the site. In addition to teaching facilities and wrap around care, this building includes provision for offices, halls and dining spaces. In addition to classrooms and offices, the ground floor would have kitchen, dining hall, assembly hall and plant room. There would be classrooms and offices on the first floor. The proposed layout and scale of the education building, sports pitches/MUGAs is considered appropriate on this site. The 2-storey building would be higher than some of the single storey buildings it replaces. It would be sited at least 36m (27m offset from the boundary) from the nearest two storey residential properties on Parkfields boundary and is appropriate due to the separation distance. The building would be located at least 56m (28m offset from the boundary) from the rear of the nearest two storey residential properties in Russell Bank Road. New tree planting and landscaping is proposed which would mitigate the visual effects due to increase in height of the proposed new school taking into account the sloping ground levels. The proposed layout would allow minimal disruption to teaching and would help to retain most of the trees on site.
- 7.3 It is noted that City Design would prefer the building to comprise brick materials only, due to maintenance of the proposed render at first floor level. However, there are examples of rendered properties within the locality and the benefit of the thermal

efficiencies of the render material is considered to outweigh these concerns. On balance it is therefore considered that the design and materials of the proposal are of high quality and in keeping with the local character and pattern of the built form. The layout of the school building, sports pitches/MUGAs and associated works are functional and well thought-out. The siting, orientation and separation distance from neighbouring properties has considered its impact on the wider area and relates to the design and mass of the neighbouring buildings.

- 7.4 The main vehicular access and pedestrian access from Edge Hill Road would remain unaltered. The proposal involves reconfiguration of car parking area which would be to the north-east of the new school, next to the MUGAs and amenity grass area. This arrangement would help to retain trees and minimise impact on the neighbouring residential occupiers in terms of their outlook and visual amenity as well as contribute towards biodiversity net gain.
- 7.5 The main entrance of the school would be located on the recessed area, where there is a lift in addition to a flight of stairs.
- 7.6 Overall, the school building, sports pitches, MUGAs and associated works would be modern and contemporary in design and would deliver an attractive built form in the area. It is therefore considered that the proposed development would enhance the character and quality of the locality.

Neighbour Amenity:

- 7.7 The school site is surrounded by residential properties, with properties on Parkfields and Russell Bank Road abutting the site to the south and west respectively. The existing boundary hedges/trees, in addition to boundary treatment screen the site from the surrounding residential properties and their rear gardens. The compact footprint of the proposed two storey building compared to the single and two storey buildings spread over a larger footprint across the site would improve the outlook and views of neighbouring properties. The building would be sited closer to the southern boundary than the existing buildings on site, however, a distance of 27m would remain to the boundary with the dwellings in Parkfields and a distance of 28m would remain to the boundary with the Russell Bank Road. The Birmingham Design Guide, SPD 2022 requires 5m set back per 3m in height for non-residential buildings. The building would be 9.8m in height, which requires a set back of just over 15m therefore, this separation distance would be easily achieved. As such, it is considered that the impact in terms of outlook and overlooking towards the rear amenity of residential properties would not be any more significant than that which already exists. In addition, the proposal includes planting trees along the periphery of the site and within the site. This would help to create a continuous landscape buffer between the dwellings and the school and when mature these trees would screen the new building from the neighbouring rear gardens and dwellings. Therefore, the proposed two-storey building would not result in any demonstrable harm and this arrangement would be acceptable in terms of immediate outlook, sunlight and privacy in respect of the neighbouring dwellings.
- 7.8 The school, sports pitches and MUGAs sports provision would also be used by the school and community outside school hours. Hours of operation on the design and access information have been stated as 7am to 6pm during weekdays and 8am -1pm at weekends. Regulatory Services recommends the hours of use of the sport pitches/MUGAs to be conditioned weekdays between 8am-8pm, Saturdays & Sundays 8am–1.30pm in line with previous school rebuild projects to protect neighbour amenity. It is considered such use would not result in unacceptable noise and disturbance than that what is normally anticipated from a primary school use. The outdoor sports provision is only for daytime use, as no floodlights would be installed at the pitches/MUGAs. Appropriate conditions have been recommended to safeguard the

neighbouring residential amenities.

- 7.9 It is acknowledged that demolition and construction works and associated activities would generate a certain level of noise and disruption within the immediate vicinity during the construction phase. To address this issue, a Construction and Demolition Method Statement (CMS) has been submitted and agreed with the Transport Officer and is secured via condition detailing hours of construction/demolition works, timing of delivery, parking for construction workers, how noise and dust would be addressed.

Highways:

- 7.10 The existing vehicular and pedestrian access from Edge Hill Road would remain unaltered. The existing car parking and manoeuvring area would be reconfigured to the north east of the new school building. A total of 44 car parking spaces (remaining unaltered), 52 cycle storage would be provided. The proposal also includes EV charge points and disabled parking spaces. The proposed redevelopment of the school would not result in an increase in pupils and staff numbers.
- 7.11 The Transportation Development Team have no objections to the scheme as there would be a neutral impact in terms of highways safety impact and consider that the appropriate level of car parking for staff and visitors is included in the scheme. The existing arrangement of the main vehicular/pedestrian access and the proposed redevelopment of the school would not result in an increase in pupils and staff numbers. Therefore, it is considered that the generated trips would likely to remain as existing with no significant increase and subsequently impact in terms of parking and highway safety would remain neutral. A travel plan has been submitted to promote the use of sustainable transport travel modes, i.e. walk, cycle and use public transport and share car journeys and reduce car dependency. Nevertheless, the school is on bus/rail routes and served by the bus/rail services that the proposed development would not have a significant adverse or severe impact on the operation or safety of the surrounding highway network. The Transportation Development Team have raised no objection subject to conditions requiring travel plan to be finalised with BCC Travel Demand Team, secure covered cycle provision, disabled parking and EV charging points.

Trees:

- 7.12 The school has a number of mature trees both within and around the periphery of the site. These trees not only provide a natural screen between the school site and neighbouring residential properties but also have immense ecological and landscape value. A number of mature high-quality trees are also present within the site as part of the high-quality landscape setting of the school. It is evident from the layout and design of the scheme that the trees and vegetation around the boundaries as well as the trees within the site have been taken in consideration.
- 7.13 A total of 11 trees (5x Category B and 6x Category C) would be removed and a total of over 70 new trees would be planted within the school site.
- 7.14 A Tree Survey has been submitted which demonstrates that the appropriate methods of working in relation to on-site trees would be followed to minimise impact on retained trees. The City Council's Tree Officer has raised no objection, subject to imposition of tree protection conditions.

Ecology:

- 7.15 The ecology and biodiversity have been considered in the submission of the proposal development. A Biodiversity Net Gain (BNG) has also been completed. The city

council's ecologist is satisfied with the findings and the proposed mitigation and compensatory measures and consider that the development can be accommodated within this site without harming protected species. To ensure protected species are not harmed by the development, appropriate conditions have been recommended.

- 7.16 A Biodiversity Metric Assessment has been submitted in support of the planning application to demonstrate how ecological enhancements would be incorporated so that the scheme delivers a net gain for biodiversity (target of 10% biodiversity net gain). The submitted information and evidence have been provided to demonstrate that the proposed development would result in biodiversity net gain with a combination of on-site and off-site improvements. This would be achieved via new habitat creation through retention of hedges and trees and creation of new shrub and tree planting, green roof, etc. A condition requiring the applicant/developer to ensure the habitats would be created and enhanced to achieve their intended biodiversity value is imposed and a S106 is required prior to grant of permission to ensure that these improvements are maintained over a minimum 30-year period, as per current policy and guidance. A biodiversity roof condition has also been recommended to ensure that the design and materials of green roof are satisfactory to maximise its ecological value.

Sustainability:

- 7.17 The application has been supported by a sustainable design statement and a BREEAM Pre-Assessment. The proposal incorporates sustainable energy source through the use of an air source heat pumps and low energy high level perimeter ventilation units (FAVU's). These measures would result in a reduction of CO2 emissions significantly. The design and access statement indicates that the new school buildings would achieve zero carbon in operation and incorporate sustainability elements throughout the scheme design. The BREEAM Report indicates that 'very good' would be achieved. It is considered that the proposed development would be energy efficient and reduce carbon footprint significantly and accords with the sustainability requirements of policies TP3 and TP4 of the BDP.

Re-use of the existing buildings

- 7.18 The proposed development would involve the demolition of existing buildings on the site. Paragraph 163 of the NPPF states that the planning system should encourage the reuse of existing resources, including the conversion of existing buildings. In this instance the school site is a brownfield site that is underutilised. The existing main school buildings were originally constructed during 1957 and the infant block rebuilt during 1987 (due to fire damage). A building condition survey was undertaken, which identified the main buildings to be in poor condition and requiring considerable cost to bring the buildings back to a good standard of repair. The NPPF is also clear whilst re-use of buildings should be encouraged, the delivery of community facilities should be given substantial weight. Weight is also attached to the efficient use of underutilised land, such as this.

Drainage:

- 7.19 A Flood Risk Assessment and Drainage Design Strategy have been submitted to support this application. Following initial objections from the LLFA (Local Lead Flood Authority), the applicant has provided additional detailed drainage information. The LLFA consider that the additional information provided is acceptable and provide prior to construction/occupation compliance conditions for the sustainable construction surface water drainage scheme, sustainable Drainage Operation and Maintenance Plan to alleviate potential overland surface water flood route and to minimise surface water flooding and improve water quality. Severn Trent Water have raised no objection subject to conditions requiring submission of surface water and foul water drainage

details. It is considered that this condition is not necessary in this instance as LLFA conditions would address the surface and foul water drainage details. Severn Trent Water itself are involved in the implementation of the drainage scheme.

Air Quality:

- 7.20 **Air Quality:** A condition has been applied to ensure details of mitigation measures on how to dust emission would be reduced during demolition/construction phase to minimise impact on air quality. In respect of the operational phase impacts on air quality, the transport assessment indicates no increase in traffic and therefore it is considered that the impact on air quality would remain neutral. The proposal includes an extraction system in association with kitchen and food preparation area. Although a plan has been provided to indicate installation of plant equipment, no technical details have been provided to assess the impact of the external flue and extraction system and extraction systems. An appropriate condition has been imposed requiring submission of the extraction details including any external flue.

Land Contamination:

- 7.21 Phase 1 & Phase 2 Ground Investigation Assessments have been submitted in support of the application. The City Council's Regulatory Services Team require imposition of pre-commencement conditions in this regard.

Other Matters:

- 7.22 The issue raised relating to the loss of the Acorn Suite and pre-school facility has been noted. Provision has been clarified during discussions with the Education Department, who have confirmed that there is a surplus of pre-school facilities available within the area. Furthermore, the proposed phasing and layout of the new school with improved MUGA does not leave sufficient space to accommodate the existing preschool facility.

8 Conclusion

- 8.1 The proposed redevelopment of the existing school would not only provide a high-quality education facility but would also enhance the quality and character of the area by incorporating good urban design principles in the built form and improved sports pitches, which would also be available for use by the community. The proposal complies with the aims of BDP Policy TP36 which supports the upgrade of existing schools and Policy PG3 which seeks to ensure a well-designed and sustainable development which would contribute to a strong sense of place. The proposal is considered an appropriate development and efficient land use to provide high quality learning environment. The proposed development would not result in any significant impact upon neighbour amenity, landscape features, highway safety or infrastructure. The proposal would constitute a sustainable development and therefore, I recommend that planning permission is granted subject to conditions.

9 Recommendation

- 9.1 That application 2024/03683/PA be approved, subject to the prior completion of a S106 Legal Agreement to secure:
- i. Biodiversity net gain monitoring fee of £8,375.20.
 - ii. Payment of a monitoring and administration fee associated with the legal agreement of £1,500
- 9.2 In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by 31/01/2025 or such later date as may be authorised by officer under powers hereby delegated, planning permission be refused for the following reasons:

In the absence of any suitable legal agreement to secure the provision of biodiversity net gain monitoring, the proposal would be contrary to Policy TP8 of the Birmingham Development Plan 2017, the Environment Act 2021 Schedule 14, Schedule 7A of the Town and Country Planning Act 1990 and the guidance in the NPPG on BNG.

- 9.3 That the City Solicitor be authorised to prepare, complete and seal the appropriate legal agreement under Section 106 of the Town and Country Planning Act.
- 9.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 31/01/2025, or such later date as may be authorised by officers under delegated powers, favourable consideration be given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

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| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the submission and approval of external materials and detailing |
| 4 | Requires the submission and approval of building & site level details |
| 5 | Requires the submission of hard and/or soft landscape details |
| 6 | Requires the submission of hard surfacing materials |
| 7 | Requires the prior submission of earthworks details |
| 8 | Requires the submission of boundary treatment details |
| 9 | Requires the submission of a landscape management plan |
| 10 | Requires the implementation of the approved Construction Ecological Management Plan |
| 11 | Requires the prior submission of an additional bat survey |
| 12 | Requires the submission of a scheme for ecological/biodiversity/enhancement measures |
| 13 | Requires the prior submission of details of bird/bat boxes |
| 14 | Requires the submission of details of green/brown roofs |
| 15 | Requires the submission of a Biodiversity Gain Plan |
| 16 | Hours of Use of the MUGA and sports pitches (0800-2000 Monday to Friday & 0800-1330 Saturday and Sunday) |
| 17 | Requires the prior submission of a contamination remediation scheme |
| 18 | Requires the submission of a contaminated land verification report |
| 19 | Requires the submission of extraction and odour control details |
| 20 | Limits the noise levels for Plant and Machinery |
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|----|--|
| 21 | Requires the implementation of the Flood Risk Assessment and Drainage Strategy |
| 22 | Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan |
| 23 | Requires the submission of a playing field scheme of works |
| 24 | Requires the submission of a schedule of playing field maintenance |
| 25 | Requires the submission of a Community Use Agreement |
| 26 | Arboricultural Method Statement and Tree Protection Plan - Implementation |
| 27 | Requires the submission of a commercial travel plan |
| 28 | Requires the provision of vehicle charging points |
| 29 | Parking area to be laid out prior to use |
| 30 | Requires the submission of cycle storage details |
| 31 | Restrict delivery and construction vehicle parking within site only |
| 32 | Requires the submission of details of a delivery vehicle management scheme |
| 33 | Requires the implementation of the energy statement |
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Reason for Approval

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- | | |
|---|---|
| 1 | Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply. Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun. |
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-

Case Officer: Audrey Lewis

Photo(s)



Edge Hill Road Access

Location Plan



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Birmingham City Council

Report to Planning Committee

3rd October 2024

Proposed change to agreed Section 106 Legal Agreement relating to planning permission 2018/03568/PA – Erection of 20no. dwellings with associated landscaping and external works, land at former Comet PH, Collingbourne Avenue, Hodge Hill, Birmingham B36 8PE

Recommendation: Approve

1 Background

1.1 On 22nd November 2018 the Planning Committee resolved to grant conditional planning permission for the erection of 20 dwellings with associated landscaping and external works, Land at former Comet PH, Collingbourne Avenue, Hodge Hill, Birmingham, B36 8PE subject to a Section 106 legal agreement Ref. 2018/03568/PA. (For reference, the original 2018 report to Planning Committee is appended as appendix 1 to this report). The Section 106 legal agreement provided for:-

- 10% affordable housing (2 units) as a commuted sum to the amount of £70,000 (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) to support the Council's current BMHT building programme.
- The payment of £14,025 to compensate for the loss of the bowling green (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards the provision and improvement of sports facilities within Hodge Hill Ward that shall be agreed in writing between the Council and the party responsible for paying the sum provided that any alternative spend purpose has been agreed by the Council's Planning Committee.
- The payment of £155,975 to compensate for the loss of public open space and to address the public open space needs of new residential dwellings (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards the provision, improvement and maintenance of public open space at the adjacent Bromford Bridge Estate POS within the Hodge Hill Ward that shall be agreed in writing between the Council and the party responsible for paying the sum provided that any alternative spend purpose has been agreed by the Council's Planning Committee.
- Payment of a monitoring and administration fee associated with the legal agreement subject to a contribution of £8,400.

2.2 The Section 106 legal agreement was signed, and the Decision Notice issued 11th January 2019. Note, that clauses in the Section 106 agreement required payment of the contributions upon reaching different stages during the implementation of the development. In the case of the affordable housing contribution 'prior to the occupation of the 9th dwelling'.

3 Implementation

- 3.1 AJS Properties Ltd., the original applicant and developer, commenced works on Phase 1 (Plots 1-8), with all eight plots at differing stages of development before going into receivership owing to higher and some unforeseen costs in building out the scheme. The site was bought at auction by Howard Property, the current owner, in November 2020. Howard Property have completed, Phase 1 (Plots 1-8) and Phase 2 (Plots 13-16). Phase 1 has been sold. Phase 3 has not yet started and consists of the construction of the final eight plots (Plots 9-12 and 17-20), including infrastructure and landscaping.

4 Proposed Variation

- 4.1 In early 2023 Howard Property approached the Council with a view to postponing payment of the affordable housing contribution until occupation of the 15th rather than 9th dwelling. The reasons given were unexpected build costs and cash flow. A deed of variation to the Section 106 legal agreement was approved by officers 20th December 2023. As it did not change the substantive sums or vary the 'Heads of terms' listed in the original report to Planning Committee, this was agreed by officers under delegated powers.
- 4.2 Subsequently, Howard Property approached the Council requesting a further variation to remove the contributions altogether. They maintained that even without an allowance for developer profit and removal of the remaining outstanding Section 106 provisions the proposal would make a loss. This time, Howard Property was advised that such a variation would need to be supported by an updated Financial Viability Assessment (FVA), independently verified, and referred back to Planning Committee, in the event that it was supported. What is now being sought goes beyond an adjustment to the timing of payment and involves a change to the 'Heads of terms' that had been agreed by the Planning Committee for the original permission. A new FVA for the development was prepared, and independently assessed by Lambert Smith Hampton (LSH), the Council's independent valuers. The LSH's report concludes:-

'The Applicant recognises there is a need to contribute some of the originally agreed Section 106 contributions and has provisionally agreed to provide a Section 106 contribution of £90,000 plus indexation. This represents 37.5% of the originally agreed Section 106 contributions, which having regard to the above, has subsequently been proven to be too high for the development to viably sustain.

Having regard to the output of our appraisal, we are content that a Section 106 contribution of £90, 000 plus indexation is fair and reasonable, and the most that the development can viably sustain.'

- 4.3 The applicant has subsequently removed the qualifier 'provisionally' and agreed that this is the offer.
- 4.4 It is important to note that viability can fluctuate, for example increased sales values or reduced build costs can improve the situation, but equally reduced sales values and increased build costs can weaken it. Furthermore, unpredictable events such as the Covid pandemic and increases in the base rate can also influence viability. Viability assessments are therefore a 'snapshot'. Nevertheless, delays generally add to developer costs, their ability to make the offered contribution and, obviously, the delivery of new housing stock for the city.
- 4.5 In light of the above, officers are of the opinion that, if this should be accepted, the £70,000 contribution, identified for affordable housing, should be retained for that purpose with the remaining £20,000 provided as a reduced open space contribution. There would also need to be a variation to the wording of the affordable housing contribution to reflect that the Council's BMHT organisation is undergoing name and management changes because of internal restructuring driven by Birmingham City Council's budget situation.

5 Consideration

- 5.1 There is a significant unmet need for new housing in Birmingham. For a variety of reasons new housing delivery has not met the targets set out in the Birmingham Development Plan (BDP) which is now 7 years old. The shortfall in supply is particularly acute in relation to both affordable housing and family sized dwellings. The proposed variation would enable the completion of the development and the provision of new family sized housing (four and five bedroom houses) to the city's housing stock. Hodge Hill is defined, by the valuers LSH, as one of the moderate value property areas within the city and, in terms of general affordability, the market houses would be attractive. In support of their request, Howard Property have stated that they are in discussions about sale (at market price) of remaining houses to the City Council, for additions to Council stock. This is a minor consideration in the assessment of the variation request, but it illustrates the point that the area delivers 'good value' in terms of provision of affordable family sized houses – of a type sought by the City and Housing Associations.
- 5.2 There would also be a benefit to existing residents of the development and surrounding area, who would appreciate completion of the landscaping and associated works and removal of the uncertainty of living next to a potential future building site.
- 5.3 Agreeing to a reduction in Section 106 contributions, even when supported by a FVA, is never welcome to a Local Planning Authority. There is an understandable concern that it sets a precedent for developers to passport the consequences of risk of a poor investment decision, to the Local Planning Authority. However, in this case, the history of the site: where the original

developer going into receivership and the current one having experienced challenges associated with unexpected costs, points to an unusual set of circumstances that are unlikely to be replicated elsewhere. The likelihood of it setting an unwelcome precedent that can be used elsewhere is slim.

- 5.4 The consequences of denying the request are a potential abandonment of an incomplete site, or submission of a formal application to vary and, if refused, an appeal. During the first five years after signing a Section 106 legal agreement it can be varied only with the agreement of the signatory parties. The original Section 106 legal agreement, attached to ref. 2018/03568/PA, is now over 5 years old. After five years, if the Local Planning Authority refuse a request, to vary the agreement, a formal application to vary the agreement can be submitted and if that is refused the decision can be appealed to the Secretary of State (Planning Inspectorate). Since 8th July, when the new emerging local plan reached Regulation 18 stage, the Council has been able to demonstrate a 4.38 years housing supply figure, which satisfies current national housing targets. Crucially, this means that the 'tilted balance' (weighting towards approval of housing schemes when contested at appeal) is not currently engaged. But the city's housing needs remain high and the new government has indicated its' intentions to increase housing provision nationally and restore five year housing land supply targets, albeit with new figures that Birmingham may be better placed to meet. A refusal of the request, backed by an independently verified FVA, is considered to be difficult to defend at a subsequent appeal.

6 Conclusion

- 6.1 The benefits of agreeing the request to vary the Section 106 legal agreement in terms of delivery of family sized houses and completion of the development of the site, are considered to outweigh the reduction in funds towards public open space and historic loss of the bowling green. The applicant has made the request in an appropriate way and justified it in an independently verified FVA addendum. The circumstances leading up to the request are exceptional and the risk to the LPA of setting a more general precedent for future reductions to affordable housing contributions on other sites, post approval, are slim.

7 Recommend that the **REQUEST BE AGREED.**

- 1) Variation to provide for reduced contribution of £90,000 (Breakdown: £70,000 will contribute towards off site affordable housing and £20,000 to compensate for the loss of Public Open Space (POS).
- 2) Variation to the wording of the affordable housing contribution.



View of the houses completed to date

APPENDIX 1 – Original Report

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|-----------------|-----------------------|---------------------|---------------|
| Committee Date: | 22/11/2018 | Application Number: | 2018/03568/PA |
| Accepted: | 03/07/2018 | Application Type: | Full Planning |
| Target Date: | 02/10/2018 | | |
| Ward: | Bromford & Hodge Hill | | |

Land at former Comet PH, Collingbourne Avenue, Hodge Hill,
Birmingham, B36 8PE

Erection of 20no. dwellings with associated landscaping and external
works

Applicant: AJS Properties Ltd
Swiss Cottage, 28 Willows Road, Walsall, West Midlands, WS1 2DR
Agent: Architecture & Interior Design
17 Coleshill Road, Hodge Hill, Birmingham, B36 8DT

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. This planning application seeks consent for the erection of 20no. semi-detached and detached dwellinghouses on land which was formerly occupied by the Comet Public House, on Collingbourne Avenue, Hodge Hill.
- 1.2. The proposed layout would comprise of 20no. dwellings and associated car parking provision, rear gardens and an area of public open space in the west of the application site arranged in a small Cul-de-Sac with a separate private drive. The proposed dwellings would all benefit from four bedrooms and would be a mix of two and two and a half storey.
- 1.3. The residential layout is outward looking with each dwelling overlooking public open space to the rear of the site or the public realm to the front of the site. The residential units on the northern boundary of the site would overlook the existing pedestrian access from Collingbourne Avenue to Kempton Park. The proposed dwellings seek to reflect the arrangement and relationship of the existing houses with the public realm, and would be set back from the road to create an active frontage.
- 1.4. The residential units would feature the following internal arrangement:
 - House Type 1 (two and a half storey, four bed house) - Ground floor hallway, WC, utility, lounge, family room, dining room, kitchen; First floor en-suite master bedroom, two further bedrooms, bathroom, airing cupboard; Second floor bedroom and study (approx. 155sqm).
 - House Type 2 (two storey, four bed house) – Ground floor hallway, WC, utility, lounge, family room, dining room, kitchen diner; First floor en-suite

master bedroom, en-suite second bedroom, bathroom, two further bedrooms, airing cupboard (approx. 157sqm).

- House Type 3 (two storey, four bed house) - Ground floor hallway, WC, utility, lounge, dining room, kitchen, garage; First floor en-suite master bedroom, three further bedrooms, bathroom, airing cupboard (approx. 97sqm).
- House Type 4 (two storey, four bed house) - Ground floor hallway, WC, lounge, kitchen diner; First floor master bedroom, three further bedrooms, bathroom, cupboard (approx. 85sqm).

- 1.5. The proposed appearance of the dwellings would broadly reflect the appearance of the surrounding dwellings, proposing facing brick with elements of render and tiled roof with UPVC windows and doors. The dwellings would also feature entrance canopies, which would again reflect the appearance of existing dwellings in the area. House type 1 would also feature front dormer windows at second storey level. House type 3 would have integral garages. House type 4 would have car ports located to the side of the dwelling.
- 1.6. The proposed residential rear gardens would range in size from a minimum of approximately 70sqm up to approximately 150sqm. Each garden would be a minimum of 10m in length and would benefit from independent rear access.
- 1.7. The density of the site would amount to approximately 24 dwellings per hectare.
- 1.8. The primary access to the site is proposed to reflect the former access arrangement of the site when it was in operation as a public house. A private drive is located in the north of the site accessed from Collingbourne Avenue which would serve a pair of semi-detached dwellings overlooking the pedestrian footpath to the north and parking for plots 7 and 8. The proposed private drive would be subject to speed reduction and traffic calming measures.
- 1.9. Proposed car parking has been arranged in a variety of ways to provide a policy compliant level of parking provision, providing 2no. parking spaces per plot. Parking spaces are positioned adjacent to the dwelling, at the side or the front, for all plots. Plots 13-16 would be provided with car ports. Plots 7 and 8 would be provided with integral garages. Areas of soft landscaping are proposed throughout the residential layout to soften the appearance of the development, including the provision of trees and planting pits between areas of car parking.
- 1.10. An area of public open space is proposed to be provided in the west of the site, adjoining the existing Kempton Park. The area of public open space is subject to quite extreme levels with a 7 metre difference from the centre of the site to the western edge of the site. It is not proposed that these levels would be adjusted as part of the application proposals, given their role in contributing towards public open space. Two large, mature trees are proposed to be retained within this area of public open space. It is understood that the public open space would be distinguished from the land associated with Kempton Park by a line of concrete posts. Matters associated with specific landscape proposals are reserved for future consideration.
- 1.11. Due to the scale of the planning application, financial contributions towards public open space and the provision of affordable housing are required to mitigate the impact of the development. Due to the site's location within a low value residential area, a contribution to the Community Infrastructure Levy is not required.

- 1.12. The application proposals have been subject to extensive discussion between the applicant and the Council throughout the course of the application, which has resulted in a number of alterations to the scheme in response to comments provided, including the re-arrangement of parking spaces and the addition of traffic calming measures along the road.

- 1.13. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises vacant, derelict and overgrown land which was - previously occupied by the Comet Public House. This was a single storey public house with car parking to the front, a bowling green and extensive open space to the rear of the site. It is understood that the building was demolished in early 2009 and has been neglected since then. The remainder of the site is comprised of disused open space. Currently the site is subject to frequent occurrences of fly-tipping and anti-social activity.

- 2.2. The site is broadly rectangular in shape, amounting to approximately 0.5 hectares, however it is noted that there are significant level changes across the site which render some areas within the site undevelopable. The application site is subject to blanket Tree Preservation Order 1556, with a Scots Pine tree and a Common Ash tree in the west of the site identified to be of moderate quality and in good condition.

- 2.3. To the immediate west of the site is Kempton Park which is accessed from Bromford Drive and Collingbourne Avenue, via an existing pedestrian pathway which is located immediately to the north of the application site.

- 2.4. The surroundings to the site are predominantly residential with a mix of dwelling types present in the area, including two storey mid-century terraced dwellings; low rise tower blocks of flats; two storey extended semi-detached dwellings; and high rise tower blocks of flats. The majority of the existing dwellings in the area date from the development of the Bromford Bridge Estate in the mid-1960s.

- 2.5. A small parade of shops is located opposite the application site which serves a local function, comprising a convenience store and a takeaway with a large car park to the front and flats above. The closest local centre to the application site is Fox and Goose District Centre, located approximately 1 mile to the south west.

- 2.6. The site benefits from good access to the strategic road network, with junction 5 of the M6 located approximately 1.7 miles to the north east of the application site. Bus service 25 runs a limited service between Ward End and Erdington from immediately outside the application site. Frequent bus services between Birmingham and Chelmsley Wood and Solihull are accessible from Chipperfield Road, approximately 0.1 mile to the east of the application site.

- 2.7. [Site Location](#)

3. Planning History

- 3.1. 22.09.2017 – 2017/03380/PA - Outline application for erection of 29 dwellings with

access, appearance, layout and scale to be determined and landscaping to be reserved for future consideration – Approved subject to conditions.

- 3.2. 05.01.2017 – 2016/08338/PA - Outline planning application for residential development comprising the erection of 29 dwellings with access, parking and private amenity space – Withdrawn.
- 3.3. 21.03.2016 - 2015/09011/PA - Outline planning application for residential development comprising the erection of 29 dwellings with access, parking and private amenity space – Withdrawn.

4. Consultation/PP Responses

- 4.1. Transportation Development – raise concerns with regards to relocation of bus stop and require amendments to the internal site layout to address concerns with regards to securing the appropriate development of the application site.
- 4.2. Regulatory Services – recommend conditions to secure vehicle charging points; contamination remediation scheme and contaminated land verification report; and noise insulation scheme.
- 4.3. Local Lead Flood Authority – requested additional information regarding drainage layout and infiltration rates.
- 4.4. Leisure Services – object to the loss both of the bowling green and the public open space as a result of this development, and recommend off site financial contributions should exceptional circumstances be demonstrated.
- 4.5. West Midlands Police – no objection.
- 4.6. West Midlands Fire Service – no objection.
- 4.7. Severn Trent – no objection.
- 4.8. Site Notice posted. MP, Ward Members and neighbours notified. No representations received.

5. Policy Context

- 5.1. National Planning Policy Framework (2018); Birmingham Development Plan (2017); Birmingham Unitary Development Plan Saved Policies (2005); Places for Living SPG (2001); Car Parking Guidelines SPD (2012); DCLG Technical Housing Standards – Nationally Described Spatial Standard (2015); Affordable Housing SPG (2001); Public Open Space in New Residential Development SPD (2007)

6. Planning Considerations

Background

- 6.1. The application site benefits from an extant outline planning consent for the erection of 29no. dwellings with landscaping details reserved for future consideration. Consent was granted in October 2017, under application reference 2017/03380/PA.

- 6.2. This current planning application builds on the principles established through the granting of the outline planning application. The outline planning permission is valid until October 2020, and it must therefore be noted that this outline consent could still be implemented at the site, notwithstanding the outcome of this full planning application, and subject to the approval of reserved matters.
- 6.3. The current planning application has been prepared in consultation with the previous developer of the site, and a letter confirming that the current developer has access to the intellectual property submitted in support of the outline planning application has been supplied in support of the current full planning application.

Loss of Public Open Space and Bowling Green

- 6.4. Paragraph 97 of the NPPF identifies that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - The development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.
- 6.5. Bowling greens are classed by Birmingham City Council in the Birmingham Development Plan as playing fields. Policy TP9 sets out that playing fields will be protected and will only be considered for development where they are either shown to be surplus for playing field use, taking account of the minimum standard of 1.2 hectares per 1000 population, through a robust and up to date assessment and are not required to meet other open space deficiencies, or alternative provision is provided which is of equivalent quality, accessibility and size. There is a third circumstance but not applicable in this instance where an application is for an indoor or outdoor sporting facility that outweighs the loss. The applicant has agreed to provide compensation to address this loss in accordance with paragraph 74 of NPPF and Policy TP9 of the BDP.
- 6.6. A Bowling Green Sequential Assessment has been submitted in support of the application, which states that the bowling green associated with The Comet public house was not used after 1995, and was used as part of the beer garden during the remaining years that the pub operated until its closure in 2008 and subsequent demolition. It is acknowledged that the bowling green does not currently resemble a bowling green due it being neglected and overgrown for the last decade. The assessment in terms of quantity identified that there were 25 other bowling greens within the surrounding areas that include 22 within a 3 miles radius with the closest being Ward End Social Club situated approximately 1 mile from the site. The Bowling Green Sequential Assessment confirms that the site continues to remain unused and derelict and that has caused increase problems for the area in the form anti-social behaviour alongside the rest of the application site and provides little in the way of wider benefits.
- 6.7. Leisure Services have been consulted on the application proposals and object to the loss of both the bowling green and the public open space as a result of this development. Leisure Services note that should exceptional circumstances be

demonstrated and accepted by the Planning Committee in regard to this loss, then compensation would be required in accordance with BDP policy.

- 6.8. Leisure Services require a financial contribution to compensate the loss of the bowling green to amount to £75,000 to be spent on the provision or improvement of sports, recreation or community facilities within the Hodge Hill Ward. Furthermore, the loss of approximately 2140sq m of POS in the north west half of the site would generate compensation to the amount of £25/m2 due to the steep gradient not being of huge value for the siting of POS features. This would total a compensation figure of £53,500 which could also be spent on the provision, improvement and or maintenance of POS and Play facilities at the adjacent Bromford Bridge estate within the Hodge Hill Ward.
- 6.9. The outline planning application (reference 2017/03380/PA) was subject to a financial viability assessment which was independently assessed. It was concluded, taking all matters into account, that the maximum that the development could sustain to ensure that the scheme is viable and deliverable would be a financial contribution of £170,000, with £14,025 to relate to compensation for the loss of the bowling green (considering its condition and redundant nature, having been disused for over 20 years) and £155,975 to relate to compensation for the loss of the public open space and a financial contribution towards public open space on the grounds that the site would seek to deliver more than 20 dwellings, in accordance with Policy TP9 of the BDP. A letter from representatives of the applicant for the outline planning application has confirmed that the applicant for this application is permitted to rely on all submissions made as part of the outline planning application.
- 6.10. Given the recent grant of outline planning permission at the site, and the considerations made with regards to the viability at the site and the housing market conditions within the area, it is considered appropriate to adopt and maintain the findings set out within the viability assessment submitted in support of the previous outline application which was independently assessed. The Council is satisfied on this basis that the proposed development would only be able to sustain the contributions agreed on the site previously, particularly as the quantum of development has reduced as part of the current planning application.
- 6.11. Within Hodge Hill Ward, the total amount of public and private fields is 0.31 per 1000 population standard, which is significantly below the 1.2 hectares playing field provision per 1000 population in Hodge Hill Ward. However, the application site, due to its limited size and shape, it is unlikely to provide provision for alternative sports. The public open space provision within Hodge Hill Ward is 2.52 hectares per 1,000 populations, which is above the minimum 2 hectares per 1,000 population standard. Consequently, the local provision would be considered acceptable and the financial compensation offered would go towards funding a local facility (that would be "equivalent or better in terms of quantity and quality") and therefore satisfies the tests of paragraph 96 of the NPPF and the BDP.
- 6.12. Furthermore, given the condition of the application site and the disused nature of the existing bowling green and public open space, I am of the view that the proposed residential development of the site would deliver significant benefits in the form of the redevelopment of a site which would secure natural surveillance over the remaining public open space within the site and beyond, and the improvement of an existing pedestrian link from Collingbourne Avenue to Kempton Park.
- 6.13. On balance, I consider that the loss of the bowling green and public open space has been appropriately justified and an acceptable level of compensation would be secured through a Section 106 Agreement.

Principle of Residential Development

- 6.14. The application site comprises a brownfield site in a sustainable location. The application site surroundings are predominantly residential, and the proposed development is broadly reflective of the residential character of the surrounding area.
- 6.15. The NPPF states at paragraph 11 that planning applications to deliver housing should be considered in the context of the presumption in favour of sustainable development.
- 6.16. Policies TP27 and TP28 of the Birmingham Development Plan relate to sustainable neighbourhoods and the location of new residential development. Policy TP27 states that all new residential development will need to demonstrate that it is meeting the requirements of creating a sustainable neighbourhood, characterised by: a wide choice of housing sizes, types and tenures; access to facilities such as shops, schools, leisure and work opportunities; convenient options to travel by foot, bicycle and public transport; a strong sense of place with high design quality; environmental sustainability and climate proofing through measures that save energy, water and non-renewable resources; attractive, safe and multifunctional public spaces; and long-term management of buildings, public spaces, waste facilities and other infrastructure.
- 6.17. Policy TP28 goes on to state that new residential development should: be located outside flood zones 2, 3a and 3b; be adequately serviced by existing or new infrastructure which should be in place before the new housing for which it is required; be accessible to jobs, shops and services by modes of transport other than the car; be capable of remediation in the event of any serious physical constraints, such as contamination or instability; and be sympathetic to historic, cultural or natural assets.
- 6.18. The proposals comprise a mix of dwellings, which seek to meet a range of housing needs. Additionally, the site was identified in the 2018 Strategic Housing Land Availability Assessment under Site E101 as being available in the short term, and could deliver up to 29 dwellings, in accordance with the outline planning permission granted in 2017.
- 6.19. The application site is located within a sustainable location with reasonable access to public transport, and a number of public services accessible within a reasonable distance. The site is unconstrained in respect of flood risk, however it is subject to an existing TPO and significant level changes across the site from east to west. Furthermore, the site currently forms public open space which is designated under BDP Policy TP9: Open Space, Playing Fields and Allotments.
- 6.20. BDP Policy TP9 states that planning permission will not normally be granted on areas of open space except unless where it can be shown that the open space is surplus, underused and of poor quality, or appropriate compensation for the loss is agreed. The open space referenced in this context relates to a disused bowling green which was associated with the operation of the site as The Comet public house. Given the demolition of the public house in 2009 and the poor condition of the site, I maintain that the proposed redevelopment of the site would deliver a number of significant benefits to the physical environment and regeneration of a site which is subject to significant levels of anti-social behaviour at present and has a negative impact on the current physical environment of the area.
- 6.21. Policy TP30 of the BDP indicates that new housing should be provided at a target density responding to its context. The density of the proposed development at 24

dwellings per hectare is considered acceptable; whilst a lower density than the surrounding area, the constraints of the site are considered to restrict the maximum density of the site. The site is well served by public transport, with a number of bus services available within a short walking distance of the application site.

- 6.22. Policy TP32 of the BDP relates to housing regeneration which promotes the regeneration and renewal of existing housing areas to ensure that high quality accommodation is provided to comply with the principles of sustainable neighbourhoods, of which the Bromford Estate is identified as a priority. The policy goes on to state that in redeveloping cleared sites, development would also need to identify and provide opportunities to improve open space provision amongst other community facilities, and improving the general quality of the environment. The application proposals seek to redevelop a vacant and disused site which has been subject to a number of instances of anti-social behaviour, whilst seeking to provide a considerable area of public open space associated with the development. Financial contributions have been secured in respect of mitigating the impact of the proposals and addressing the loss of open space.
- 6.23. I consider that the application proposals are acceptable in principle, being broadly compliant with relevant adopted planning policy.

Layout and Design

- 6.24. The application proposals seek to deliver a traditional residential development of 20no. four bedroom semi-detached and detached houses. The dwellings are proposed to be constructed of red brick, with elements of render on the building facades. The dwellings would have a pitched roof of slate roof tiles. It is considered that the scheme design would be broadly reflective of the character of the surrounding residential properties. I recommend that a condition to secure the details of the materials used in the development is attached to any planning permission granted.
- 6.25. The layout of the proposed development seeks to provide an active street frontage to Collingbourne Avenue. The proposed access road and private drive would create a safe and secure environment, incorporating speed reduction measures to encourage low vehicular speeds. Off street parking in the form of allocated spaces is proposed throughout the development to accommodate parking demands of prospective residents.
- 6.26. The proposals relate to a cul-de-sac arrangement. Whilst this is reflective of the character in the immediate area, it is not considered that there is an over-riding positive character of the area, and that the proposed arrangement would have an acceptable impact on the appearance and character of the surrounding area. The redevelopment of the site would have a significantly positive impact on the physical environment of the application site. Furthermore, the dwellings have been arranged in an outward looking fashion and this would achieve significant benefits in respect of providing natural surveillance across the public open space and beyond to Kempton Park.
- 6.27. The proposed private drive would provide access to a pair of semi-detached dwellings in the north east of the application site. As per the arrangement for the cul-de-sac, the dwellings would overlook the public open space in the form of the pedestrian link. This would achieve considerable benefits to the provision of natural surveillance throughout the site, and would consequently improve the pedestrian link at present which is understood to be subject to recurring instances of anti-social behaviour.

- 6.28. I consider that the proposals would have an overwhelmingly positive impact on the visual amenity of the site, which is currently vacant, in poor condition and subject to regular occurrences of anti-social behaviour. I consider that through introducing residential development on this site, this would improve the appearance of the application site in the context of the surrounding area and its character.

Flood Risk and Drainage

- 6.29. The application site does not fall within a flood plain and does not raise any concerns regarding flooding, given the previously developed nature of the site and proximity to watercourses. The site is however subject to a considerable difference in levels across the site.
- 6.30. Extensive discussions have been undertaken between the Local Lead Flood Authority and the applicant to ensure that concerns raised with regards to acceptable levels of infiltration have been suitably addressed and that the development of the site would be unlikely to lead to instances of flooding. This has since been provided in the form of a Drainage Strategy which has been reviewed and commented on by the Drainage Engineer. Severn Trent have also been consulted on this matter, and raise no concerns with regards to the proposed discharge rate into the drainage network.
- 6.31. Given the support for the development of the site in principle, and the significant benefits that the redevelopment of the site could achieve in respect of removing the opportunity for anti-social activity at the site and delivering 20 dwellings to contribute towards Birmingham's acute housing needs, it is considered appropriate in this instance to secure an acceptable drainage layout based on the information provided by relevant conditions recommended to be attached to any grant of planning permission.

Landscape and Ecology

- 6.32. The application proposals indicate areas of landscaping within the development, with areas of planting proposed throughout the site to improve the appearance and soften the development scheme overall and reduce the dominance of car parking on the frontages. The Council's Landscape Officer has been consulted on the application proposals and raised the same concerns raised on the outline planning application. It is considered that these matters could be sufficiently addressed through the application of appropriately worded planning conditions.
- 6.33. The Council's Tree Officer has been consulted on the planning application and is satisfied that the considerations set out within the tree survey submitted remain valid. As per the previous planning application, no development is proposed on the site which would be likely to affect existing tree root protection zones however the proposed access road through the site would sit on the boundary of such zones. It is recommended that conditions are attached to any grant of planning permission to secure the appropriate methodology for the surfacing and laying out of the vehicular access road and car parking spaces adjacent to plot 20.
- 6.34. The Council's Ecologist, based on the likelihood of wildlife being identified on site, recommends that site clearance would need to be undertaken in a sensitive and methodical manner. Timing of site clearance would be most critical to avoid impact to nesting birds whilst dense areas of scrub should be cleared by hand first to check for mammals / birds before larger machinery is used, and it is recommended that this should be done under the supervision of a competent ecologist. A number of conditions are recommended to secure the appropriate mitigation of any impact on

biodiversity, in accordance with Policy TP8 of the BDP. This policy states that all developments should, where relevant, support the enhancement of Birmingham's natural environment, with biodiversity enhancement measures being appropriate to the scale and nature of the development. On this basis, I consider that the recommended condition to secure a scheme for ecological / biodiversity enhancement measures is reasonable and necessary.

Residential Amenity

- 6.35. The application proposals relate to the erection of 20no. dwellings, seeking to regenerate a vacant and disused site. I therefore consider that by bringing an active use to the site and improving the security of the site through the redevelopment of the site for residential purposes, there would be a beneficial effect on the immediate area.
- 6.36. The proposed dwellings have been positioned within the site layout to achieve adequate separation distances throughout the new scheme and from existing dwellings, with minimum distances of approximately 22.5m between plot 18 and 46 Collingbourne Avenue to the south; and approximately 30m between plot 9 and 74a Blossom Grove to the north. The dwellings would relate to an outward looking layout which would achieve natural surveillance across public open space, pedestrian links, and the proposed vehicular accesses to the site. I consider that the layout would contribute towards a positive living environment for prospective occupiers of the site.
- 6.37. When assessed against the Technical Housing Standards – Nationally Described Space Standard, house types 1, 2 and 3 exceed or meet the minimum gross internal floor areas however it is noted that there are shortfalls in some of the bedroom sizes. In respect of the bedroom sizes in house types 3 and 4 (approx. 6.5sqm and 4.8sqm), it is noted that the single bedrooms are undersized, providing room for only a single bed and item of furniture with restricted circulation space. This does raise concerns in terms of its impact on residential amenity, however the family living spaces of the living room and dining kitchen are considered to be adequate and would be likely to achieve an acceptable living environment. On balance, I consider that the proposed dwelling types would achieve an adequate living environment overall and prospective occupiers would have a reasonable level of residential amenity. Furthermore, I consider that the redevelopment of the site would achieve good quality residential accommodation and contribute significantly towards housing needs in Birmingham.
- 6.38. It is clear from the submitted floor plans for house type 3 that, whilst there is a shortfall which is regrettable, a functional layout is achievable within each of the dwellings, and I consider that these would result in an acceptable living environment which would create an acceptable level of residential amenity.
- 6.39. Each of the houses is proposed to have a private rear garden and parking to the front or side of the dwelling provided. The gardens vary in size from approximately 70sqm to 150sqm. Places for Living SPG requires a minimum of 70sqm of private garden space for family dwellings (3+ bedroom). It is considered that this would be acceptable.
- 6.40. A large area of public open space, relating to approximately 1,640sqm would be provided within the site boundary, utilising the area of considerable level change. The development seeks to enhance an existing pedestrian link to Kempton Park. I consider that whilst the private external amenity space proposed is not fully policy compliant, it is of a good quality and future occupiers would have easy access to public open space within the site boundary as well as an existing park and recreation area within a short walk.

- 6.41. Given the residential surroundings of the application site, regard has been had towards the residential amenity of neighbouring properties. Due to the proposed orientation of dwellings, there is no breach of the 45 Degree Code with respect of the impact on the existing dwellings immediately adjacent to the application site. The proposed dwellings are located a minimum of 22.5m from existing dwellings (46 Collingbourne Avenue). Places for Living SPG recommends a distance of 21m between building faces and I consider that the proposals are therefore in accordance with the required guidelines.
- 6.42. Regulatory Services has been consulted on the application proposals and recommend a condition to secure noise insulation and acoustic protection for all windows, external doors and glazed area at the proposed development. I consider that such a condition is reasonable and necessary and has been recommended to be attached to any grant of planning permission.
- 6.43. By regenerating the site from its current dilapidated state, which is understood to have been subject to fly-tipping and anti-social behaviour, I consider that the proposed scheme would contribute towards the reduction of crime and fear of crime through the removal of a derelict former commercial property and the provision of new residential accommodation will ensure natural surveillance across the site and towards the pedestrian link to Kempton Park. I consider that in this regard, the proposals would have an overall significantly positive effect on neighbouring residential amenity.
- 6.44. I consider that the application proposals would, overall, achieve a reasonable level of residential amenity for prospective occupiers. In order to protect the sizes of the private rear gardens in the long term, I recommend that permitted development rights are removed and have attached a condition to that effect.
- 6.45. In respect of the impact on neighbours and existing properties, and their loss of privacy, I recommend that permitted development rights are removed for new windows, and have attached a condition to that effect.

Highway Safety

- 6.46. The application site is located within a sustainable location which is accessible to a public transport services providing access to a variety of destinations between Birmingham and Solihull. The bus stop to the front of the site provides a limited, hourly service between 10:00 and 14:30 Monday – Saturday. No cycle storage is proposed as part of the application proposals however it is considered that cycle parking for the dwellings could be reasonably accommodated in rear gardens for the houses.
- 6.47. The application site seeks to provide a policy compliant level of car parking associated with the residential development of the application site, proposing 40no. car parking spaces at a ratio of 2 spaces per 4 bed unit. This parking provision is therefore in accordance with the Car Parking Guidance SPD.
- 6.48. Transportation Development have been consulted on the application proposals and raised a number of concerns regarding the cul-de-sac access and the need for the relocation of the bus stop to the front of the application site which serves the limited service 25 serving sites between Ward End and Erdington to facilitate this; the arrangement of car parking spaces and the provision of garages and car ports which would be considered to be insufficient to accommodate modern cars; no speed reduction for private drive; inappropriately located refuse store; no turning head

provided for refuse vehicle access; long expanses of vehicle crossing; and no pedestrian visibility splays.

- 6.49. The applicant has been made aware of Transportation Development's concerns and has introduced some amendments to the layout of the development to address the issues raised.
- 6.50. Regarding the outstanding concerns raised by Transportation Development, I am of the view that these could all be sufficiently addressed through relevant pre-commencement conditions being attached to any grant of outline planning permission, including a Section 278 Agreement to secure the relocation of street furniture. This is consistent with the approach that is taken on many other sites throughout Birmingham for this scale of development, and would not be reasonable grounds for refusal in this instance.
- 6.51. With regards to the relocation of the bus stop, Travel for West Midlands has been consulted and have advised that they would require the relocation of the bus stop to be accompanied by a three-seat shelter and a bus cage. I am of the view that this would be excessive given the frequency and use of the bus service and am satisfied that a like-for-like replacement of the bus stop further along Collingbourne Avenue would be sufficient in this instance. This would be secured through an application made by the developer for Travel for West Midlands and an appropriately worded planning condition to secure Section 278 / Traffic Regulation Order to relocate street furniture.
- 6.52. Where the proposed garages are considered to be inadequate in size, it is noted that plots 7 and 8 also benefit from 2no. driveway frontage parking spaces and accordingly meet the requirements set out within the Car Parking Guidelines SPD. The car ports would also be inadequate in size, and it is considered that an appropriately worded condition to secure minor alterations to the width and depth of the car ports should be attached to any grant of planning permission to ensure the function of such a facility.
- 6.53. On balance, I consider that the proposed residential development of a significantly problematic site which has been subject to recurrent instances of anti-social behaviour will achieve far-reaching benefits including the effective redevelopment of a vacant and dilapidated site and the delivery of houses to address Birmingham's acute housing need. Whilst Transportation Development's concerns are noted, I remain of the view that these outstanding matters could be addressed through appropriate pre-commencement conditions and the redevelopment of this challenging site should be supported. Transportation Development officers have since agreed that this would be a reasonable approach to take in this instance.

Affordable Housing

- 6.54. The postcode within which the development site is located falls within a Low Value Area Residential Zone and will therefore be subject to a £0 Community Infrastructure Levy charge. However, given the scale of the proposed development, seeking to deliver more than 15 dwellings, 35% affordable housing must be delivered as part of the scheme, in accordance with Policy TP31 of the Birmingham Development Plan.
- 6.55. Other elements which would be required to form part of a Section 106 Agreement is addressed in paragraphs 6.4 – 6.13 of this report, in accordance with the scheme's compliance with Policy TP9 of the BDP.

- 6.56. A Financial Viability Assessment was submitted in support of the previously approved outline planning application proposals (2017/03380/PA) and this was subject to an independent appraisal undertaken by Lambert Smith Hampton. The conclusions of the appraisal found that the site location is a low value residential location. The immediate surrounding locality is generally characterised by fairly typical local authority housing stock. It is considered appropriate that the current planning application proposals are considered in the context of the previously assessed Financial Viability Assessment, given the amount of time elapsed and the housing market conditions experienced in the area. Furthermore, it is noted that the current application proposals comprise a reduced quantum than that which was approved at outline stage.
- 6.57. In order to secure the appropriate regeneration of the application site, it has been concluded that the site could secure a maximum of 10% affordable housing which would be the equivalent of 2 units, alongside the financial contributions required to mitigate the loss of the bowling green and public open space and to address the demand of future residents. Given the scale of this level of provision, and in accordance with the previous planning permission issued in respect of the development of the application site, it has been agreed that this should be secured as a commuted sum to reflect the discounted value of the affordable housing units, amounting to £70,000 to support the Council's current BMHT building programme.
- 6.58. Whilst a higher level of affordable housing provision would be welcomed, I accept that the proposed provision to be secured through the Section 106 Agreement would be the maximum that the development could sustain when considering the low value of the area and the financial contributions required to address other issues associated with the site. When balanced against the prospective benefits of the residential development of the site, in terms of improvements to the physical environment and contributing towards Birmingham's acute housing need, I consider that the proposed level of affordable housing provision as a commuted sum would be acceptable.

Other Matters

- 6.59. Given the former use of the application site, Regulatory Services has recommended conditions for contaminated land investigation to be undertaken. I consider that such conditions would be appropriate and reasonable in the context of the scale of the proposed residential development.
- 6.60. Regulatory Services has also requested a condition to secure vehicle charging points throughout the development. Given the emergent focus on electric vehicles and their contribution towards addressing air quality matters in the UK, I consider that such a condition would be justified. However, I note that a large proportion of the proposed residential units would have driveway parking, I would expect that vehicles can be charged in this manner without the need for a dedicated vehicle charging points. I therefore consider that such a condition would not be reasonable or necessary in the context of the development.

7. Conclusion

- 7.1. Whilst I acknowledge that the loss of the bowling green would be regrettable, the application has agreed appropriate compensation for the loss of bowling green and public open space together with off-site compensation sum that would provide long-term recreational community benefit for the immediate area. Furthermore, the bowling

green has been disused for a number of years and the site is currently subject to high levels of anti-social behaviour.

- 7.2. The application site is an identified site within the 2018 SHLAA that is situated within a sustainable location and would deliver housing, contributing towards the acute housing need of Birmingham, with provision of affordable housing for the city. The density together with mix of housing would be appropriate for the site, in the context of the site constraints, and would integrate positively with the surrounding area. The proposal is considered acceptable in residential amenity terms.
- 7.3. Whilst Transportation Development raises concerns in respect of the access, relocation of the existing bus stop to the front of the application site, and the arrangement of car parking spaces, I consider that these matters can be appropriately dealt with through pre-commencement conditions. On balance, the overall benefits of the residential development of this vacant and dilapidated site which has been subject to recurrent instances of anti-social behaviour and currently makes a negative contribution to the surrounding area would outweigh the concerns of Transportation Development.
- 7.4. I therefore consider that the application is acceptable subject to conditions and completion of a Section 106 agreement to secure a financial contribution for the compensation associated with the loss of the bowling green and public open space and a commuted sum to reflect 10% affordable housing of the development.

8. Recommendation

8.1. Approve subject to a Section 106 Legal Agreement.

1. That consideration of Application No: 2018/03568/PA be deferred pending the completion of a planning obligation under Section 106 of the Town and Country Planning Act to secure the following:-
 - i) 10% affordable housing (2 units) as a commuted sum to the amount of £70,000 (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) to support the Council's current BMHT building programme.
 - ii) The payment of £14,025 to compensate for the loss of the bowling green (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards the provision and improvement of sports facilities within Hodge Hill Ward that shall be agreed in writing between the Council and the party responsible for paying the sum provided that any alternative spend purpose has been agreed by the Council's Planning Committee.
 - iii) The payment of £155,975 to compensate for the loss of public open space and to address the public open space needs of new residential dwellings (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards the provision, improvement and maintenance of public open space at the adjacent Bromford Bridge Estate POS within the Hodge Hill Ward that shall be agreed in writing between the Council and the party responsible for paying the sum provided that any alternative spend purpose has been agreed by the Council's Planning Committee.
 - iv) Payment of a monitoring and administration fee associated with the legal agreement subject to a contribution of £8,400.

2. In the absence of the completion of a suitable planning obligation to the satisfaction of the Local Planning Authority on or before the 21st December 2018, planning permission be REFUSED for the following reasons:

- i) In the absence of a suitable planning obligation to secure affordable housing on the site, the proposed development conflicts with Policy TP31 of the Birmingham Development Plan (2017) and with paragraph 50 of the National Planning Policy Framework (2018).
- ii) In the absence of a financial contribution towards the provision, improvement and maintenance of public open space at the adjacent Bromford Bridge estate POS within the Hodge Hill Ward, the proposed development conflicts with saved paragraphs 8.50-8.53 and 8.54 of the Birmingham Unitary Development Plan 2005, Policy TP9 of the Birmingham Development Plan and with paragraphs 96 and 97 of the National Planning Policy Framework (2012).

That the City Solicitor be authorised to prepare, complete and seal the appropriate planning obligation under Section 106 of the Town and Country Planning Act.

That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before the 21st December 2018, favourable consideration will be given to the application subject to the conditions listed below:

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| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the prior submission of level details |
| 3 | Requires the prior submission of earthworks details |
| 4 | Requires the prior submission of a contamination remediation scheme |
| 5 | Requires the prior submission of a contaminated land verification report |
| 6 | Requires the prior submission of a drainage scheme |
| 7 | Requires the prior submission of a sustainable drainage scheme |
| 8 | Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 9 | Requires the prior submission of a construction ecological mitigation plan |
| 10 | Requires the prior submission of a scheme for ecological/biodiversity/enhancement measures |
| 11 | Requires the submission a Noise Insulation Scheme to establish residential acoustic protection |
| 12 | Requires the prior submission of a construction method statement/management plan |
| 13 | Requires the prior submission of sample materials |
| 14 | Requires the prior submission of details of refuse storage |
-

-
- | | |
|----|--|
| 15 | Removes PD rights for new windows |
| 16 | Removes PD rights for extensions |
| 17 | Requires the prior submission and completion of works for the S278/TRO Agreement to secure construction of new accesses, reinstatement of redundant drop kerbs and relocation of street furniture including bus stop, street lighting columns, public refuse bin |
| 18 | Requires the prior approval of the siting/design of the access - private drive |
| 19 | Requires the prior submission of details of pavement boundary |
| 20 | Requires the prior approval of an amended car park layout |
| 21 | Requires pedestrian visibility splays to be provided |
| 22 | Requires the prior submission of altered details to the proposed car ports to plots 13-16 |
| 23 | Requires the submission of hard and/or soft landscape details |
| 24 | Requires the submission of boundary treatment details |
| 25 | Requires the prior submission of Public Open Space Management Plan |
| 26 | Arboricultural Method Statement - Submission Required |
| 27 | Requires tree pruning protection |
| 28 | Implement within 3 years (Full) |
-

Case Officer: Claudia Clemente

Photo(s)



Figure 1: Application Site looking west



Figure 2: Application Site looking south



Figure 3: Application Site looking north

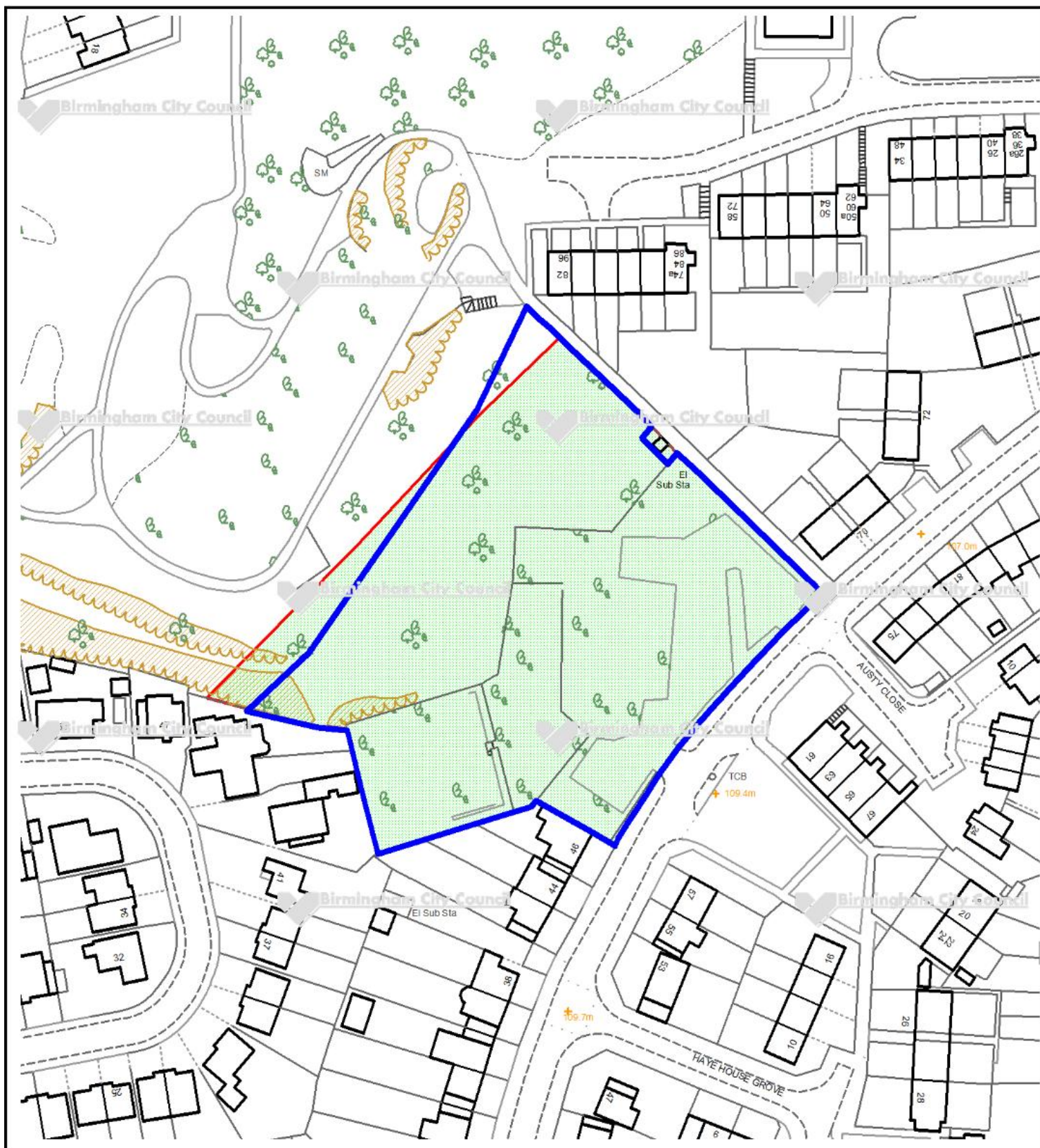


Figure 4: Application Site surroundings to the north



Figure 5: Application Site surroundings to the east

Location Plan



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Birmingham City Council

Planning Committee

03 October 2024

I submit for your consideration the attached reports for the **City Centre** team.

| <u>Recommendation</u> | <u>Report No.</u> | <u>Application No / Location / Proposal</u> |
|-----------------------|-------------------|--|
| Approve – Conditions | 12 | 2024/04606/PA Land bounded by Floodgate Street/Fazeley Street/Heath Mill Lane Digbeth Birmingham B9 Alterations to existing car park layout, construction of new access and installation of perimeter fencing |

| | | | |
|-----------------|----------------------|---------------------|---------------|
| Committee Date: | 03/10/2024 | Application Number: | 2024/04606/PA |
| Accepted: | 15/07/2024 | Application Type: | Full Planning |
| Target Date: | 09/09/2024 | | |
| Ward: | Bordesley & Highgate | | |

Land bounded by Floodgate Street/Fazeley Street/Heath Mill Lane,
Digbeth, Birmingham, B9

Alterations to existing car park layout, construction of new access and
installation of perimeter fencing

| | |
|------------|---|
| Applicant: | Bellerive Regen 4 Ltd JTC House, 28 Esplanade St Helier, Jersey, JE4 2QP |
| Agent: | Turley Brownlow Yard, 12 Roger Street, London, WC1N 2JU |

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 Planning permission is sought for the alterations to existing car park layout, construction of new access and installation of perimeter fencing at land bounded by Floodgate Street/Fazeley Street/Heath Mill Lane. The existing car park provides 35 parking spaces used by tenants of the surrounding buildings.
- 1.2 The proposed fencing would be 2m tall and be situated behind the existing boundary wall on its three boundaries with the surrounding streets. The fencing proposed would be black weldmesh fencing with gates to match to the new access point.

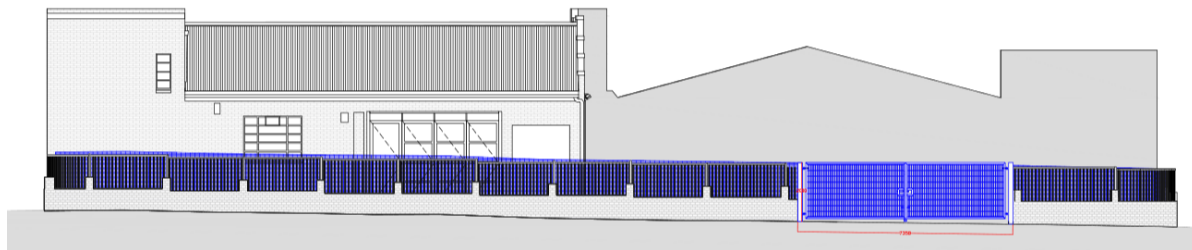


Figure 1 – Part Elevation to Fazeley Street

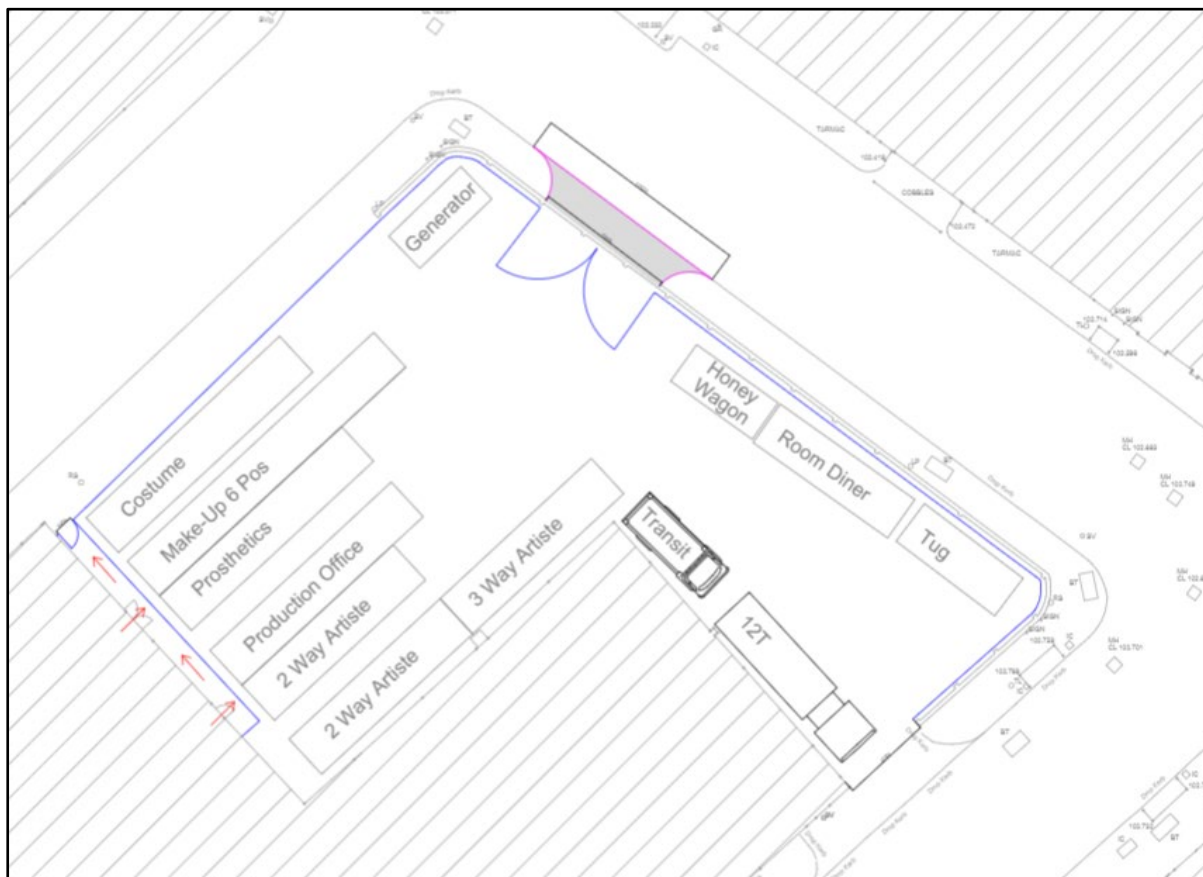


Figure 2 – Proposed site layout

- 1.3 A supporting letter from BBC Studios states that the facility is required to enable filming of the show *Silent Witness* which is due to commence at The Bond in January 2025. The site will accommodate the production team's equipment and vehicles associated with filming.
- 1.4 The following supporting information has been provided:
- BBCSW_CP Rev.03 - Location Plan,
 - P24063 Rev.A – Topographical Survey – Existing,
 - 02 Rev.E – Proposed Plan,
 - A100 Rev.A – Existing Elevations,
 - 01 Rev.D – Proposed Elevations
 - DTP/3703624/ATR001 Rev.B – Proposed Site Layout Visibility Splay Swept Path Analysis 16.5m Artic,
 - Proposed HGV Parking Area, Land off Fazeley Street, Digbeth, Birmingham, Technical Note, 3703624, July 2024, prepared by DYNAMIC TRANSPORT PLANNING for Savills PLS,
 - Letter dated 09th July 2024 prepared by Turley RE: FULL PLANNING APPLICATION – Land at Fazeley Street, Herath Mill Lane and Floodgate Street

1.3 Application documents

2. Site & Surroundings:

- a. The application site is bounded by Floodgate Street to the west, Fazeley Street to the north, Heath Mill Lane to the east and Digbeth CrossFit Gym to the south.
- b. The size of the site is 869.50sq.m.
- c. The surrounding area is characterised principally by two-storey former industrial buildings which have been repurposed for a variety of uses, such as the adjoining gym to the south; Fazeley Studios (creative hub, events space and restaurant) to the west, a go-karting circuit to the north, and a former MOT garage (now vacant) to the east.
- d. The site is located within the Digbeth, Deritend and Bordesley High Streets Conservation Area at its boundary with the Warwick Bar Conservation Area which sits to the north of the Site, the two boundaries running down Fazeley Street. There are several nationally and locally-listed buildings within the vicinity of the site
- e. [Site location](#)

3. **Planning History:**

- a. 2020/03634/PA - Hybrid planning application comprising: Outline application with all matters reserved for demolition of identified buildings, conversion and alteration of existing and erection of new buildings for a mixed use development of up to a maximum of 350,000sqm. Resolution to grant planning permission.
- b. 1995/03761/PA – Formation of car park. Approve subject to conditions. 23.11.1995.

4. **Consultation Responses:**

- a. BCC Highways: No objections subject to conditions to ensure:
 - (Gates Set Back/Opening Mechanism) - Any gates provided to the development access shall be subject of an automatic opening mechanism, or be set back at a distance of 5.5 meters from the edge of the carriageway of the adjoining highway and thereafter maintained.
 - No development shall take place until a package of highway measures have been agreed with the Local Planning and highway Authorities and all necessary consents, licenses, permits or agreements have been completed or obtained in respect of such measures. The package of measures shall include heavy duty footway crossing, to departmental standards at the applicant's expense to Birmingham City Council specification. The development shall not be occupied until all such measures have been substantially completed in accordance with the approved details.
 - Parking and vehicular circulation area not to be used for any other purposes and to be kept free at all times.
 - Perimeter fencing to be located within the application site.
 - All works to remain within the private landownership.
 - No works to infringe out onto the highway.

The applicants have since provided an amended proposed plan (drawing no.02 Rev.E) which illustrates that the proposed access gate, would be set back from the edge of the carriageway of the adjoining highway by 5.5m.

b. BCC Conservation:

- Very low level of 'less than substantial harm' to the Digbeth, Deritend and Bordesley High Streets Conservation Area. Paragraph 208 of the NPPF applies.
- Very low level of harm to surrounding locally listed buildings. Paragraph 209 of the NPPF applies.

5. **Third Party Responses:**

a. The application has been publicised by site notice.

b. 80 representations have been received making the following comments:

- *BCC policy states that no new surface level car park will be supported,*
- *Loss of parking for local business,*
- *Huge container blocking our fire exit doors and window,*
- *Too much congestion in the area already,*
- *HGV pose a threat to pedestrians,*
- *Horrible for local businesses, residents and community,*
- *Lack of parking available,*
- *Traffic problems an environment problems,*
- *Pollution*

6. **Relevant National & Local Policy Context:**

a. National Planning Policy Framework (if relevant)

Paragraph 208 of the NPPF states:

'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

Paragraph 209 of the NPPF states:

'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'.

b. Birmingham Development Plan 2017: (if relevant)

PG3, GA1.1, GA1.3, TP12, 202

c. Development Management DPD: (if relevant)

DM2, DM14

d. Supplementary Planning Documents & Guidance:

Digbeth, Deritend and Bordesley High Streets Conservation Area Character Appraisal.

7. **Planning Considerations:**

- 7.1 The main material considerations are principle of proposed development, visual amenity and the impact upon heritage assets. Given the existing use is for car parking there is no material change of use proposed, it is only the operational development under consideration noting that the operational development makes the site suitable for HGV access.

Visual Amenity

- 7.2 The proposed fencing would be black powder coated weldmesh fencing around the site which would be set approximately 2m above ground level. The proposal would also include the installation of 2 no gates, one to be located on the north elevation which would be 1m wide and 2m in height and another on the east elevation which would measure 7.35m wide and 2m in height. The applicants have confirmed that they will amend the fencing type, and that it would be provided with a black mesh as indicated in figure 3 below. This design would be visually acceptable.



Figure 3

Example image provided by the applicant of weldmesh fencing

- 7.3 In general the proposal is not considered to have a detrimental impact upon the visual amenity of the surrounding area, given that as existing, the site is used as a car park and the proposal would in fact see the reduction in movement to and from the site, although the vehicles would be HGVs.

Heritage

- 7.4 The Conservation Officer notes that a new point of access is proposed off Fazeley Street to the north-west of the site. The access has been placed as to the northern extremity of the site to minimise impacts to the Fazeley Street/ Heath Mill Lane intersection and on road safety.

7.5 A new perimeter fence is proposed around the site, to provide enhanced safety measures for the production vehicles and associated equipment. The proposed fence will be 2 metres in height, and it will consist of black powder coated fencing. The proposed fence will be located on the inside of the existing brick-wall and railings that currently surrounds the site.

7.6 An assessment of the proposals is provided in the accompanying Heritage Statement provided by Turley which concludes:

The site's use and character as a surface car park will not change as a result of the proposed development and the existing dwarf wall and fence will be retained with the exception of the location of the new access. The additional fence will increase the height of the boundary and the sense of enclosure, which was lost following the site's clearance in the 20th century. The materiality and design are utilitarian, and the black colour is recessive and consistent with the existing fence which it will sit behind. Having considered the site's existing character and the contribution it makes to the character of the conservation area and setting of nearby locally listed buildings, which are largely characterised by industrial development, the impact on the significance of these assets is considered to be negligible ('less than substantial harm' in NPPF terms). Due to the functional significance and/or altered setting of nearby listed buildings, it is concluded that the proposed development will not affect their significance or the significance of the Warwick Bar conservation area which has an extensive and varied setting. The proposed development will contribute to the cultural and creative regeneration of Digbeth through facilitating the use of The Bond, a locally listed building, as a filming venue.

7.7 The Conservation Officer considers the assessment is fair and that a negligible adverse impact on the conservation area and on the setting of the locally listed buildings can be agreed to. This would equate to a very low degree of 'less than substantial harm' to a designated heritage asset and a very low level of harm to the NDHAs. In accordance with paragraph 208 of the NPPF, the negligible impact of the proposed development on the character and appearance of the Digbeth Conservation Area should be weighed against the public benefits of the proposal and a balanced judgement be required in relation to the negligible effect on the significance of locally listed buildings in accordance with paragraph 209 of the NPPF.

7.8 As set out in the Heritage Statement, the main benefits of the proposed development consist of strengthening the city's cultural and creative economy as well as the tourist economy, and consequently an increase in employment opportunities within the area. It is considered that the aforementioned benefits outweigh the minor physical alterations to the site caused by the proposed development which would result in an overall negligible impact on Digbeth Conservation Area and the setting of nearby locally listed buildings.

Highway Impacts

7.9 The supporting Highway Note states that the proposals at the site are for the storage of HGVs associated with television filming. It is proposed that around 13 HGVs of varying sizes, up to a 16.5m articulated vehicle, will be stored at the site for a period of around nine-months per year, for three years, commencing January 2025.

7.10 It is anticipated that after the initial arrival at the site by the HGVs at the start of each filming block, there would be very few additional movements. The operator has confirmed that there would be expected to be around five movements per month, with these generally anticipated to occur outside of highway peak periods (after 18:00) and be facilitated by the presence of a banksman.

- 7.11 As per the Transport Note, the existing access is not considered suitable for HGVs. This is due to the existing access points proximity to the adjacent building, and the location of the signalised crossroad junction to the north, the widening of the junction is not considered appropriate. However, the existing access point would be repurposed for pedestrian access and egress only.
- 7.12 Therefore, a new access junction is proposed located to the north-west of the site, off Fazeley Street. The proposed priority-controlled access junction incorporates a 11m wide bellmouth with 2m radii.
- 7.13 To facilitate the proposed use, the current users of the car park would be displaced, and it is anticipated that these vehicles would relocate to the public and permit holder parking areas surrounding the site. Annual parking permits for businesses whose properties are located within the Digbeth and Irish Quarter boundary can be obtained from BCC. Permit holder only parking bays are located adjacent to the site on both Heath Mill Lane and Floodgate Street.
- 7.14 To assess the availability of off-site parking within the vicinity of the site, a parking occupancy survey was undertaken, which found a total of 392 parking bays, within the vicinity of the site.
- 7.15 The car parking survey found that 205 of the parking bays provided within the vicinity of the site are vacant during all periods of the day. Therefore, it is considered that there is sufficient replacement parking within the vicinity of the site to cater for the 35 displaced parking spaces at the site.
- 7.16 The applicant has provided swept path turning circulation area for articulated vehicle along with vehicular visibility splays.
- 7.17 In view of the above, I do not consider there to be any significant reasons why the proposal should be resisted on highway grounds subject to the conditions stated above.

Other matters

- 7.18 Through the consultation exercise objections have been raised as set out in section 5 above. In addition to the issues set about above, in relation to lack of parking for local businesses, too much congestion, and the HGV posing a threat to pedestrians, I consider the proposal to be acceptable, as the parking survey submitted as stated that there is ample parking spaces in the vicinity for the 35 displaced parking spaces. Concerns were raised surrounding congestion; however the vehicle movement would be reduced compared to the existing, as the HGVs would be stored at the site for a period of 9 months per year, there would be no constant coming and going of HGVs.

8. **Conclusion**

- 8.1 The proposed alterations to the existing car park layout, construction of a new access and the installation of perimeter fencing, is not considered to have a detrimental impact upon the character and appearance of the area, the negligible heritage harm is overcome by the public benefits of the proposal and highway implications are acceptable. Therefore, the proposal is considered to comply with the relevant planning policies and the NPPF.

9. **Recommendation:**

1.1. Approve subject to Conditions

-
- 1 Implement within 3 years (Full)
 - 2 Requires the use to discontinue within a timescale
 - 3 Requires the scheme to be in accordance with the listed approved plans
 - 4 Requires the submission and completion of works for the S278/TRO Agreement
-

Case Officer: Ayesha Ali

Photo(s)



View of site
from Heath Mill
Lane

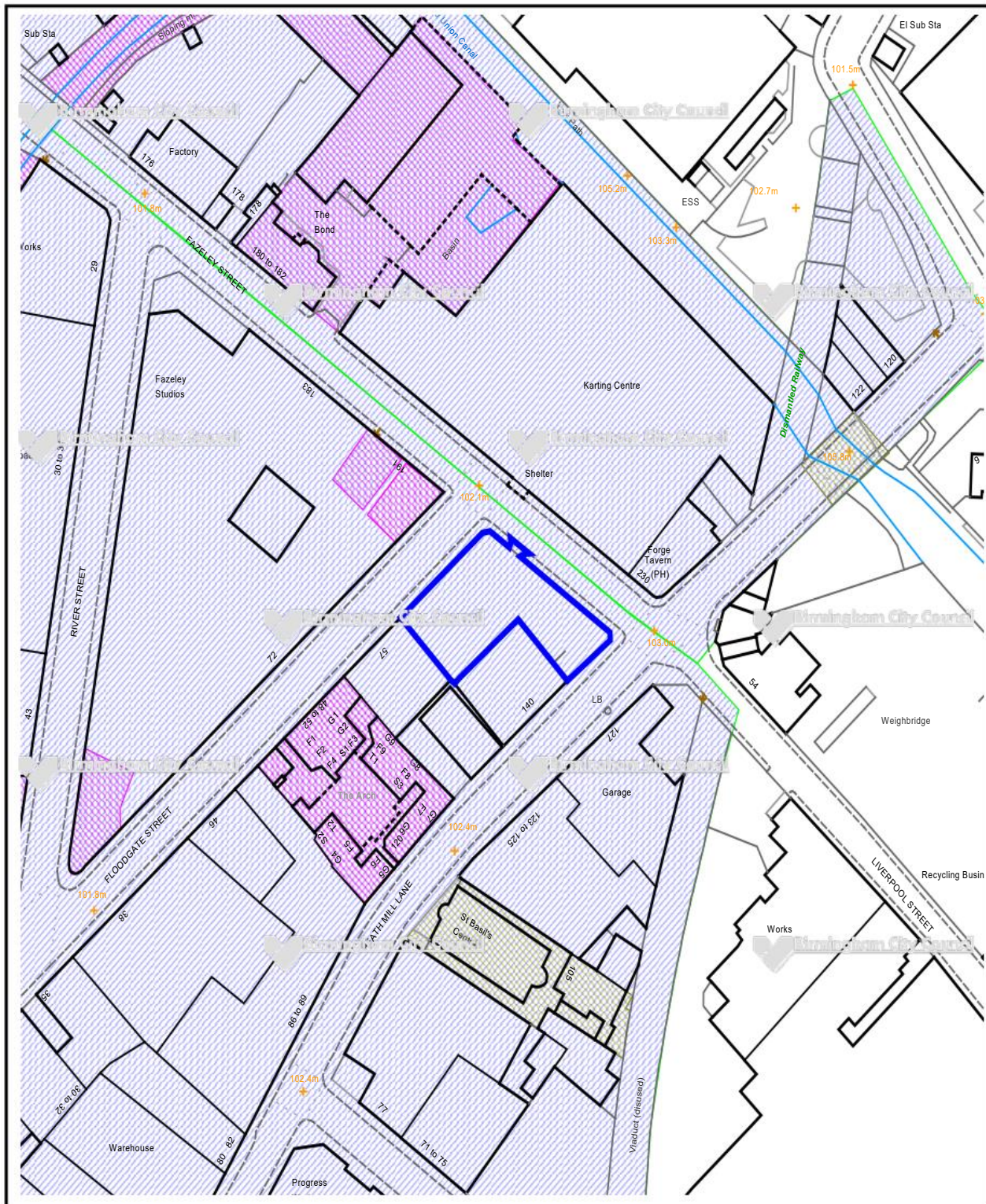


View of site
from Fazeley
Street



View of site from
Floodgate Street

Location Plan



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